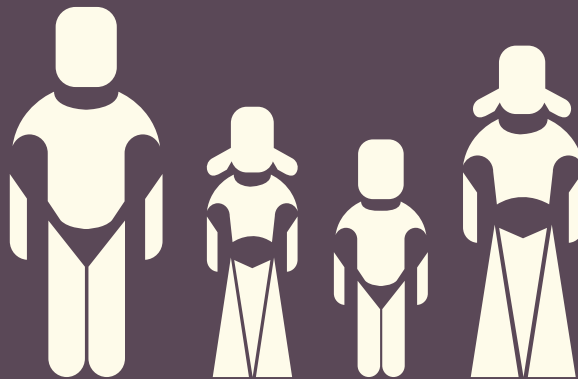


# THE ARREST AND DETENTION OF CHILDREN SUBJECT TO IMMIGRATION CONTROL:

A report following the Children's Commissioner  
for England's visit to Yarl's Wood Immigration  
Removal Centre



## **CONTENTS**

<u>Foreword</u>	02
<u>Who are we?</u>	03
<u>1 Executive summary</u>	04
<u>2 Introduction</u>	08
<u>3 Research methods</u>	10
<u>4 The decision to detain</u>	12
<u>5 Arrest</u>	18
<u>6 Children's concerns during detention</u>	26
<u>7 The healthcare of children at Yarl's Wood</u>	34
<u>8 Reviewing detention</u>	44
<u>9 Arrangements for pregnant and nursing mothers and their babies and infants</u>	51
<u>Acknowledgements</u>	58
<u>Appendix one</u>	59

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## **FOREWORD**

### **SIR AL AYNLEY-GREEN,** **CHILDREN'S COMMISSIONER FOR ENGLAND**

Each year in the UK, we detain around 2,000 children<sup>1</sup> subject to immigration control for administrative purposes.<sup>2</sup> This has to end.

The UK should not be detaining any child who has had an unsuccessful asylum claim. Not only is there is no reason to continue the administrative detention of children, we present evidence in this report to demonstrate that it may be harmful to their health and well-being.

However, I am also pragmatic, and appreciate that ending the detention of children for administrative purposes will not happen overnight.

My statutory duty is to promote awareness of the views and interests of children, particularly regarding their physical and mental health and emotional well-being, their education, training and recreation, and protecting them from harm and neglect. Having seen and heard first hand the experiences of those who have been through the process of arrest and detention at Yarl's Wood, we at 11 MILLION are working with the Government to ensure that the process of detention and removal promotes in all possible ways the welfare and well-being of children, whilst recognising this will always be a difficult and distressing time for families.

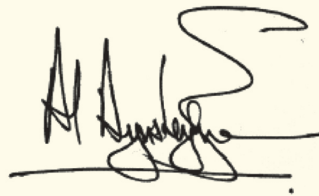
In addition, we call for a system that, at the very least, never detains babies, or children with serious physical or mental health needs during their last few days, weeks or months in our country.

We have been pleased to work with Government over the last few months to achieve better outcomes for children in the immigration system. We look forward to continuing to work with all agencies to ensure the asylum system is both effective and humane and is compliant with international human rights. In doing so, I will continue to return to Yarl's Wood, to listen to detained children and families and hear about their views and experiences of arrest and detention.

My ambition is for the United Kingdom to be internationally recognised as a place where the administrative detention of children genuinely occurs only as a last resort and for the shortest possible time, following the application of fair, transparent decision-making processes.

1 —  
Crawley H and Lester T (2005);  
No Place for a Child: Children  
in Immigration Detention in the  
UK – Impacts, Alternatives and  
Safeguards; Save the Children  
UK; London.

2 —  
The Children's Champion's  
Office within the UKBA has  
provided a figure for Yarl's  
Wood which states that 874  
children were detained  
between May 2007 and  
May 2008, and 991 for the  
entire year (2008). These  
records are generated at  
Yarl's Wood's reception when  
the IS91 (authority to detain)  
for each individual entering  
the centre is entered on the  
contractors database. Note,  
the figures given would only  
relate numbers of children  
detained at Yarl's Wood and  
would necessarily exclude  
British Citizen children, as  
they would not have an IS91  
and are considered as 'guests'  
rather than detainees. The  
Government is also known to  
detain children at Tinsley House  
IRC and Dungavel IRC, as well  
as in short-term holding centres.  
No figures are available for  
these centres.



## **WHO ARE WE?**

11 MILLION is a national organisation led by the Children's Commissioner for England, Professor Sir Al Aynley-Green. The Children's Commissioner is a position created by the Children Act 2004.

### **The Children Act 2004**

The Children Act requires the Children's Commissioner for England to be concerned with the five aspects of well-being covered in Every Child Matters – the national government initiative aimed at improving outcomes for all children. It also requires us to have regard to the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC underpins our work and informs which areas and issues our efforts are focused on.

### **Our vision**

Children and young people will actively be involved in shaping all decisions that affect their lives, are supported to achieve their full potential through the provision of appropriate services, and will live in homes and communities where their rights are respected and they are loved, safe and enjoy life.

### **Our mission**

We will use our powers and independence to ensure that the views of children and young people are routinely asked for, listened to and that outcomes for children improve over time. We will do this in partnership with others, by bringing children and young people into the heart of the decision-making process to increase understanding of their best interests.

### **Our long-term goals**

1 — Children and young people see significant improvements in their well-being and can freely enjoy their rights under the United Nations Convention on the Rights of the Child (UNCRC).

2 — Children and young people are more highly valued by adult society.

### **For more information**

Visit our website for everything you need to know about 11 MILLION:  
[www.11MILLION.org.uk](http://www.11MILLION.org.uk)

## **EXECUTIVE SUMMARY**

1

Using the power of entry given by Parliament, the Children’s Commissioner for England, Sir Al Aynsley-Green, visited Yarl’s Wood Immigration Removal Centre (IRC) on 16 May 2008.<sup>3</sup> The purpose of the visit was to see first hand the provision and conditions at Yarl’s Wood, and to hear from children, young people and their families about their experiences of the detention process.

The Children’s Commissioner first visited and reported on Yarl’s Wood in 2005, and has remained concerned about the detention of children for administrative purposes and the impact this has on them. There is substantial evidence that detention is harmful and damaging to children and should be used only as a last resort.<sup>4</sup>

11 MILLION believes that depriving children of their liberty and detaining them for administrative convenience without judicial oversight is never in their best interests and does not contribute to meeting the Government’s outcomes for children under the Every Child Matters framework.

This report presents the findings of the Children’s Commissioner’s visit, and considers the detention of children at Yarl’s Wood in the light of the Government’s obligations under Article 37 of the United Nations Convention on the Rights of the Child (UNCRC). It examines the impact of detention upon children’s mental and physical health; particularly as evidence suggests its duration is lengthening.

## **BACKGROUND**

Yarl’s Wood IRC in Bedfordshire is the main immigration removal centre in the UK with family accommodation. Up to 2,000 children each year are detained with their families under immigration powers across the detention estate.<sup>5</sup> Yarl’s Wood IRC’s management was contracted by the United Kingdom Border Agency (UKBA) to the private contractor Serco in April 2007. UKBA state that, in 2008, 991 children were detained for that calendar year.<sup>6</sup>

The visit to Yarl’s Wood IRC focused on the family accommodation provided on Crane Unit. On the day of the Children’s Commissioner’s visit, the unit had 95 individuals listed on the detainee roll board, 54 of these were children.

We used a range of methods to obtain information, including face to face interviews with children and their families, participation sessions with children, direct observation of a review meeting and meetings with staff at Yarl’s Wood IRC and Bedford Hospital NHS Trust. We also drew on a range of external and secondary sources.

The Children’s Commissioner was accompanied by a team of seven staff; each member contributed to compiling the primary and secondary data for the report.

## **CONTEXT**

The average length of time children and young people are being detained is increasing and, crucially, the decision to detain them is neither being used as a last resort nor for the shortest period of time as required by Article 37 of the UNCRC.

At Yarl’s Wood IRC, the average length of stay for children has increased from eight to 15 days.<sup>7</sup> But, this figure masks extreme lengths of detention experienced by some children. According to the Joint Chief Inspectors’ report<sup>8</sup>, greater numbers of children are being detained for longer than 28 days. The longest single period of detention recorded was

3 — Children Act 2004, s2(8)(a).

4 — A number of studies have examined the damaging effects of immigration detention on a child’s physical and/or mental well-being. See: Zachary Steel et al (2006), Impact of immigration detention and temporary protection on the mental health of refugees; The British Journal of Psychiatry; 188: 58-64. doi: 10.1192/bjp.bp.104.007864. See also: Aamer Sultan and Kevin O’Sullivan (2001); Psychological disturbances in asylum seekers held in long term detention: a participant-observer account; MJA; 175: 593-596. See also: Silove D, Steel Z, Watters C (2000); Policies of deterrence and the mental health of asylum seekers in Western countries; JAMA; 284: 604-611.

5 — Crawley H; Ibid.

6 — UKBA (16.02.2009); Factual Comments on YW Report 1. See also footnote 2.

7 — HM Chief Inspector of Prisons (2008); Report on an announced inspection of Yarl’s Wood Immigration Removal Centre 4th-8th February 2008.

8 — Ofsted (2008); Safeguarding Children: the third joint Chief Inspectors’ report on arrangements to safeguard children.

9 — The detention of age disputed cases is of grave concern, but is beyond the scope of this report.

10 — ‘Newer arrivals’ refers to families who arrived after March 2007 and are therefore under the New Asylum Model (NAM) where cases are dealt with regionally by one person from start to finish.

103 days. Her Majesty’s Chief Inspector of Prisons (HMCIIP) was clear in her report that 83 children had been held for more than 28 days during a four-month period.

## **KEY FINDINGS**

### **Detention**

11 MILLION argues that depriving children of their liberty and detaining them for administrative convenience is never likely to be in their best interests and should be ended. There is an urgent need to develop alternatives to detention for families<sup>9</sup> whose claims are unsuccessful.

The majority of the children and young people encountered during our visit had either lived in the UK for many years, or were born here. Consideration must be given to granting settlement for humanitarian reasons to those who have been in the country for lengthy periods of time. This is a fair solution for those families whose extended residence in the UK is through no fault of their own, but due to the historic inefficiencies of the asylum system that are only now being properly addressed.

Reducing the use of detention for newer arrivals<sup>10</sup> must hinge upon working with them to explore voluntary return, and addressing the barriers that exist to returning. This work can only reasonably be undertaken once an asylum claim has run its legal course, and should take place as soon as possible after a final refusal of their appeal. Until UKBA has explored such an approach, they cannot argue convincingly that the willingness of families to co-operate with returning voluntarily has been properly tested.

### **Arrest**

There appear to be significant discrepancies between policy guidelines and what happens in practice to children and families during arrest. Based on the evidence provided by children and families, we conclude that arrest teams were not complying fully with current guidelines that would minimise the distress and anxiety of children and their families during this difficult process.

The process of arrest and conditions during transportation were the main source of complaint from children and young people at Yarl’s Wood. Arrest and transportation to detention takes place with scant regard to their basic welfare needs. The majority found the arrest process upsetting and frightening. Records made available to 11 MILLION, accounts by children given to their teachers during children’s forums, and oral evidence given by children and their families to the Children’s Commissioner indicate that control and restraint are sometimes used on children and young people — a significant cause for concern.

During the arrest process, children and families were not given sufficient opportunity to bring with them their personal belongings. The loss of personal possessions is one of the most de-humanising aspects of the arrest process for children and adults. Greater clarity is required as to what happens to belongings and how families can reclaim them.

Both children and their parents should feel confident to complain about the circumstances of their detention, with particular attention given to an age-appropriate complaints system for children. Our findings suggest that the current complaints system, in place since September 2006, is not well used. Although it was designed with children in mind, it does mitigate concerns by children and/or their parents that any complaint will negatively impact on their case.

### **Children’s concerns during detention**

Children at Yarl’s Wood told us of the emotional impact of detention, describing it as being like a prison and sharing with us their feelings of loss and anxiety. These include the loss of belongings, pets, absence of contact with friends and the impact of a lack of general unfamiliarity and change in routine. One of the concerns raised by older young people was a fear for their younger siblings and parents. The provision of emotional support and/or counselling needs to be improved, with priority given to older children

who tend to carry the greater stress on behalf of their families.

Children highlighted to us ways in which listening to their suggestions for improvement could make detention more palatable, for example ensuring contact with friends, opportunities for play and activities, and better food. Effective procedures need to be put in place to progress issues and ideas raised through the children's forums.

### Children's healthcare

Children and young people who are detained at Yarl's Wood are entitled to the same standard of healthcare that is provided to all children in the UK, regardless of their immigration status. We believe detention is harmful to children's health and well-being, and children who are ill should never be detained.

The particular areas of concern are: the recording and availability of patient information; provision of follow-up care; delivery of immunisations; inadequacy of clinical care; poor care provided to children and adults with mental health needs; and consideration before removal of healthcare needs thereafter.

Our audit of health records at Yarl's Wood found outcomes to be below the standard we would expect to be provided by the National Health Service (NHS). Children's physical and mental health rarely appears to inform the decision to maintain detention. We found that children who had serious illnesses such as Sickle Cell Anaemia, or whose condition deteriorated in detention, remained detained. There is an urgent need to address the provision of mental health services and support for children and their parents. The preventative healthcare arrangements prior to removal, for example immunisations and the provision of malaria prophylaxis, were found to be so inadequate as to endanger children's health.

### Reviewing detention

The current process of reviewing children's detention lacks clarity and does not give sufficient attention to children's welfare or to the impact detention has on them.

Concerns raised in welfare meetings are not always acted upon by UKBA. Based on our evidence, including the case studies contained in chapter eight of this report, in some instances issues identified as matters of 'serious concern' did not prompt appropriate action. The process needs to be urgently reviewed to ensure that the best interests of the child are central to decisions on detention. We argue that some form of judicial involvement is required in reviewing the detention of individual children.

There is a need for independent research to identify the reasons for the increased length of times spent in detention, and for this to be published.

### Arrangements for pregnant and nursing mothers and their babies and infants

Detention is particularly damaging for babies and infants, and no babies or infants should be detained by UKBA as a matter of policy.<sup>11</sup> In the absence of this, as a minimum we believe women in detention should have access to all appropriate services related to pregnancy, confinement, and the post-natal period, with particular attention given to the provision of adequate nutrition during pregnancy and lactation.

The current arrangements for the preparation of Powdered Infant Formula (PIF) are unsatisfactory. We recommend that mothers feeding formula to their infants have facilities for making up fresh feeds in their own rooms, particularly where they have other children to care for. In the absence of this, an unrestricted amount of sterile pre-packed Ultra Heat Treated (UHT) formula must be made available to mothers for night-time feeds. As a matter of urgency, safe and supportive feeding regimens for babies and infants should be introduced at Yarl's Wood.

11 —

For an analysis of the effects of immigration detention on infants and babies, see: Dr Rosalind Powrie; Submission to the National Inquiry into Children in Immigration Detention from the Australian Association for Infant Mental Health (AAIMH).

## **KEY RECOMMENDATIONS**

Throughout this report, recommendations relating to the subject area are made at the end of each chapter. We list 42 recommendations in all. However, from our overall findings, there are six top-line recommendations that underpin this report and its key messages.

1 Detaining children for administrative reasons is never likely to be in their best interests or to contribute to meeting the Government's outcomes for children under the Every Child Matters framework. The administrative detention of children for immigration purposes should therefore end.

2 Exceptional circumstances for detention must be clearly defined and should only be used as a measure of last resort and for the shortest period of time in line with the requirements of Article 37(b) of the United Nations Convention on the Rights of the Child (UNCRC).

3 The UK Border Agency (UKBA) should develop community-based alternatives to detention which ensure that children's needs are met, and their rights not breached, during the process of removal. We acknowledge that UKBA needs to take a risk-based approach to immigration. However, we do not believe that this needs to be incompatible with acting in the best interests of the child as required by Article 3 of the UNCRC.

4 Since the detention of children is unlikely to end immediately as we would wish, the recommendations made at the end of each chapter should be urgently implemented to ensure children are treated in compliance with Every Child Matters principles and the UNCRC.

5 In line with international human rights standards, and the Government's removal of the reservation against Article 22 of the UNCRC, the Government should monitor compliance with these standards particularly in relation to the detention of children.

6 UKBA should set out the accountabilities of all agencies, from the Home Office through to the providers, clearly and unambiguously so that detainees, interested agencies and the public are aware of the respective agencies' responsibilities and accountabilities with regard to the detention and removal of failed asylum seekers.

## INTRODUCTION

2

Using the power of entry given by Parliament, the Children's Commissioner for England, Sir Al Aynsley-Green, visited Yarl's Wood Immigration Removal Centre (IRC) on 16 May 2008.<sup>12</sup> The purpose of the visit was to see first hand the provision of care and the conditions at Yarl's Wood, and to hear from children, young people and their families about their experiences of the detention process.

Yarl's Wood in Bedfordshire is the main IRC in the UK where children are held with their families.

## CONTEXT

The Children's Commissioner first visited Yarl's Wood IRC in 2005 and has remained concerned about the detention of children for administrative purposes and the impact this has on them. This report provides substantial evidence that detention is harmful and damaging to children and young people. 11 MILLION believes that depriving children of their liberty and detaining them for administrative convenience is never likely to be in their best interests or to contribute to meeting the Government's outcomes for children under the Every Child Matters framework.<sup>13</sup>

Asylum seekers can be detained by the immigration authorities at two points: while a decision is made on whether to grant asylum or, following an unsuccessful claim, when their removal from the country is anticipated. In practice, the detention of children and families often occurs before attempts to remove them, with some children experiencing several episodes of detention before they are either removed or allowed to stay.

11 MILLION is concerned that the average length of time that children are being detained is increasing and, crucially, the decision to detain children is not being used as a last resort or for the shortest appropriate period of time as required by Article 37 of the United Nations Convention on the Rights of the Child (UNCRC). The average length of stay for children in Yarl's Wood has increased from eight to 15 days.<sup>14</sup> The Joint Chief Inspectors' report highlighted that greater numbers of children were being detained beyond 28 days.<sup>15</sup>

11 MILLION recognises that there have been recent positive developments. In particular, we are encouraged by the Government's removal of its reservation to the UNCRC in relation to immigration.<sup>16</sup> The removal of the reservation to Article 22 of the UNCRC is evidence of the commitment from Government to extend all articles of the UNCRC to both citizen and non-citizen children, to ensure that their human rights and best interests will take precedence over immigration concerns. The Government's recent commitment to change legislation to make the United Kingdom Border Agency (UKBA) subject to a duty to promote the welfare of children is also welcome. We would now like to see the Government give serious consideration to ending the detention of children subject to immigration control.

## PURPOSE

This report presents the findings of the Children's Commissioner's visit to Yarl's Wood in 2008, and considers the detention of children at Yarl's Wood IRC in light of the Government's obligations under Article 37 of the UNCRC. It examines the impact of detention on children's mental and physical health, particularly as the detention of children and families appears to be used as a routine application of policy, and is lengthening in duration.

12 —  
Children Act 2004, s2(8)(a).

13 —  
The five outcomes set out in Every Child Matters are: be healthy; stay safe; enjoy and achieve; make a positive contribution; and achieve economic well-being.

14 —  
HM Chief Inspector of Prisons (2008); op. cit.

15 —  
Ofsted (2008); op. cit.

16 —  
This was formalised on 18 November 2008 by document Reference: C.N.980.2008.TREATIES-7 (Depositary Notification).

Key areas examined in this report relate to: how decisions to detain families are made; the process of arrest; children's experiences of detention; healthcare for children at Yarl's Wood; the process of reviewing detention in the light of children's welfare, and arrangements for pregnant and nursing mothers and their babies and infants. This approach provides a holistic picture of the child's journey through detention from which to draw our conclusions and make comprehensive recommendations.

In preparing this report we have met with key people in UKBA, as well as Serco who are contracted to run Yarl's Wood IRC. As a result of two meetings held in February and March 2009, we have included a section entitled 'improvements since our visit' at the end of each chapter. We welcome the improvements that have been made and look forward to working constructively with the agency and its contractors in the future.

## RECOMMENDATIONS

Throughout this report, recommendations relating to the subject area are made at the end of each chapter. However, based on our overall findings, there are six top-line recommendations that form the basis of this report and underline its key messages.

1 Detaining children for administrative reasons is never likely to be in their best interests or to contribute to meeting the Government's outcomes for children under the Every Child Matters framework. The administrative detention of children for immigration purposes should therefore end.

2 Exceptional circumstances for detention must be clearly defined and should only be used as a measure of last resort and for the shortest period of time in line with the requirements of Article 37(b) of the United Nations Convention on the Rights of the Child (UNCRC).

3 The UK Border Agency (UKBA) should develop community-based alternatives to detention which ensure that children's needs are met, and their rights not breached, during the process of removal. We acknowledge that UKBA needs to take a risk-based approach to immigration. However, we do not believe that this needs to be incompatible with acting in the best interests of the child as required by Article 3 of the UNCRC.

4 Since the detention of children is unlikely to end immediately as we would wish, the recommendations made at the end of each chapter should be urgently implemented to ensure children are treated in compliance with Every Child Matters principles and the UNCRC.

5 In line with international human rights standards, and the Government's removal of the reservation against Article 22 of the UNCRC, the Government should monitor compliance with these standards particularly in relation to the detention of children.

6 UKBA should set out the accountabilities of all agencies, from the Home Office through to the providers, clearly and unambiguously so that detainees, interested agencies and the public are aware of the respective agencies' responsibilities and accountabilities with regard to the detention and removal of failed asylum seekers.



## **RESEARCH METHODS**

3

The visit to Yarl's Wood focused on the family accommodation provided on Crane Unit. On the day of the Children's Commissioner's visit, the unit had 95 individuals listed on the detainee roll board, 54 of whom were children.

A range of methods were employed to obtain information, including: face to face interviews with children and their families; participation sessions with children; direct observation of a review meeting, and meetings with staff at Yarl's Wood and Bedford Hospital NHS Trust. We also drew on a range of external and secondary sources (see below).

The Children's Commissioner was accompanied by a team of seven staff; each member played a role in compiling information for the report (see end of this chapter).

### **USE OF PRIMARY DATA**

The team spoke to 20 families, consisting of 25 adults and 33 children. There was an additional session where two of the Commissioner's staff worked with a group of eight children, aged between six and 14, throughout the day. Six of these children were not from families who spoke to the Commissioner privately, meaning that, in total, 64 of the 95 detainees present on the day were represented.

Of the 33 children in the families the team spoke to, 12 were 18 months-old or under. A further 12 were between two and five, nine children were over the age of six and three of these were teenagers.<sup>17</sup>

Individuals' experiences, and their perceptions of events, matter greatly. It is our statutory duty to give children and their families' views and interests a voice and to raise awareness accordingly.

Prior to the visit on 16 May 2008, an 11 MILLION staff member accompanied Her Majesty's Inspector of Prisons' (HMIP) team to Yarl's Wood to observe their inspection of the facility in February 2008.<sup>18</sup> This provided an insight into the review process, as did talking to detainees and staff during the inspection process.

In November 2007, the Commissioner visited Bedford Hospital, the provider of secondary care for those at Yarl's Wood, and spoke to the paediatric team and senior managers from Bedford Primary Care Trust (PCT). 11 MILLION held meetings with the responsible managers for children's health and welfare at Yarl's Wood and also with staff at the health centre. In addition, we have spoken with the Department of Health, the UK Border Agency (UKBA) and Her Majesty's Inspector of Prisons (HMIP). We also referred to the Chief Inspector of Prisons' report on Yarl's Wood.<sup>19</sup>

### **USE OF SECONDARY DATA**

The team also examined 42 sets of children's medical records after written consent was obtained from parents.<sup>20</sup> A consultant paediatrician, who accompanied the 11 MILLION team on the visit, audited these records to ascertain health problems and the nature of care provided.

During the visit we requested the records of the children's forums, which record children's views on various aspects of their arrest and detention. Following a recommendation to do so in our last report on Yarl's Wood in 2005, forums have been run fortnightly by teaching staff at Yarl's Wood.

17 —  
Of the 54 children on the detainee roll board on 16.05.08: 14 were one year-old or under; 18 were between two and five years; and 22 were aged six or over, of whom nine were teenagers. This means that the Commissioner spoke to more families with younger aged children than families with those aged six or over or who had adolescent children. However, this was balanced by the work conducted independently with those aged six or over.

18 —  
11 MILLION joined HMIP for the first two days of its inspection, which took place during 4 - 8 February 2008.

19 —  
HM Chief Inspector of Prisons (2008); op. cit.

20 —  
We are also grateful to Serco staff, Bail for Immigration Detainees and the Yarl's Wood Befrienders, all of whom helped facilitate consent.

The Commissioner's team interviewed key members of the Yarl's Wood staff including the Head of Health Care, the Assistant Director for Children and Families, the Principal Social Worker, and a number of GPs and nurses.

### **ADDITIONAL SOURCES**

11 MILLION has also considered the key UKBA policy and operational guidance documents which refer directly or indirectly to children's detention. In particular we have looked at the Caseowner's Workbooks – used to train new UKBA staff, the Immigration Directorate Instructions, and the Enforcement instructions and Guidance.

In addition, the Children's Commissioner regularly receives written communication from child detainees, their parents and organisations working with them highlighting aspects of the detention process. Where we have received permission to do so, we have included some of this information in the report.

### **GOOD PRACTICE**

11 MILLION's work with the children and young people at Yarl's Wood hinged on the principle of informed consent. They were given information on 11 MILLION, the function and purpose of the visit and how their views would be used. The group had been informed of the team's visit prior to arrival by Serco staff. Ample time, space and opportunity were offered throughout the day for questions regarding the visit and the issues that were exposed.

Consent forms were distributed and discussed with the children and their parents. We clearly explained the content of the forms and the importance of understanding exactly what it meant if they agreed to the terms within the form.

Children and young people were given written information about the 11 MILLION website so that the group would have an opportunity to stay informed about 11 MILLION's past, present and future work if they wanted to.

### **THE 11 MILLION VISIT TEAM**

The team consisted of: Professor Sir Al Aynsley-Green, Children's Commissioner for England; Director of Policy and Research; Associate Director of Policy and Research; Senior Policy Development Officer (also an accredited Immigration Caseworker); Senior Participation Officer; Freelance Participation Officer; Policy Administrative Officer and Consultant Paediatrician.

A policy team staff member accompanied HMIP on part of its inspection in February 2008. The visits to Bedford Hospital on 21 November 2007 and 20 February 2008 were undertaken by Professor Sir Al Aynsley-Green, supported by a policy team staff member and a Consultant Paediatrician.

## **THE DECISION TO DETAIN**

4

11 MILLION believes that the process of administrative detention harms children and young people. Through a greater focus on innovation in decision making and the reallocation of resources, the United Kingdom Border Agency (UKBA) could still reach their goals if the detention of children and their families was ended. There is an urgent need to develop alternative strategies for families whose claims to remain in the UK are unsuccessful.

For families who have arrived in the UK recently, we urge that changes are made to current caseworking arrangements. Consideration needs to be given to the model of caseworking tested in the early legal advice pilot in Solihull, which resulted in higher rates of voluntary departure for those whose claims were unsuccessful. UKBA also needs to further address how and when they deliver information and advice on voluntary departure.

For those who have been in the country for lengthy periods of time, consideration must be given to granting settlement for humanitarian reasons. This is a fair solution for those families whose long residence in the United Kingdom is through no fault of their own, but due to the historic inefficiencies of the asylum system that are only now being addressed.

We begin this chapter by outlining the Government's international human rights obligations in respect of the administrative detention of immigrants and of children in particular. In light of those obligations we then consider the domestic legal and policy framework. We then look at the current management of 'old' and 'new' asylum claims, and suggest policies that might be adopted to reduce or minimise the detention of children.

### **INTERNATIONAL STANDARDS AND THE DETENTION OF CHILDREN**

There is a 'presumption of liberty' in international law. The European Convention on Human Rights (ECHR) states that: 'Everyone has the right to liberty and security of the person'.<sup>21</sup> Signatories to the ECHR may only arrest or detain a person under immigration powers to 'prevent an unauthorised entry into the country' or 'where an action is being taken against them with a view to deportation or extradition'.<sup>22</sup>

International standards relating specifically to the detention of children are contained in the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (UNJDL).<sup>23</sup>

21 — European Convention on Human Rights (ECHR) (1950), Article 5 (1).

22 — ECHR, Article 5 (1)(f).

23 — The UNJDL is part of the UN Minimum Standards and Norms of Juvenile Justice. The UNJDL was adopted by General Assembly Resolution 45/113 of 14 December 1990. The Rules set out a general standard to which states should aspire, but do not have the status of a treaty.

24 — United Nations Convention on the Rights of the Child (UNCRC) (1989), Article 37 (b).

25 — UNJDL, Rule 11 (b) makes clear that the Rules apply to those in administrative detention as well as those in the juvenile justice system.

26 — UNJDL, Rule 2.

27 — In the UK there is no judicial authorisation of the length of children's detention when they are placed in immigration detention, and the 'minimum age' requirements of the UNJDL have not been adopted. The UK's current arrangements therefore fall short of the UN standards.

28 — Legislative attempts to redress the lack of evidence are currently being pursued, see: Lord Ramsbotham (25.03.2009); Borders, Citizenship and Immigration Bill [HL]— Amendments to be debated in the House of Lords; see, After Clause 53, 57B Insert the following new Clause, 'Duty to collect and publish statistics on detention and children'; available at: [www.publications.parliament.uk/pa/ld200809/ldbills/029/amend/ml029-irb.htm](http://www.publications.parliament.uk/pa/ld200809/ldbills/029/amend/ml029-irb.htm)

29 — Joint Council for Welfare of Immigrants (2006); Immigration, Nationality and Refugee Law Handbook; p 898.

30 — 'Entry' is used here in the legal sense rather than the physical sense of crossing the border. Whilst an asylum seeker is awaiting a decision on whether they are a refugee, they are not considered to have 'entered' the country but are awaiting a decision on whether they are able to 'enter' as a refugee.

31 — JCWI (2006); Immigration, Nationality and Refugee Law Handbook; see p 902-905 for full details of the legislative powers under which immigration detention can occur.

32 — Children may also be detained where they are subject to, or are a family member of a person subject to, a deportation order, a notice of an intention to deport, or a recommendation for deportation by a court.

33 — Immigration, Nationality and Refugee Law Handbook, op cit; p 898.

34 — The fullest account of UKBA detention policy and powers to detain are set out at Chapter 55 of the Enforcement Guidance and Instructions.

35 — UKBA (2009); Code of Practice for Keeping Children Safe from Harm while in the United Kingdom.

The UNCRC requires that detention is used only as a measure of last resort and for the shortest appropriate time.<sup>24</sup> The UNJDL rules, which apply to all children deprived of their liberty for whatever reason,<sup>25</sup> state that deprivation of liberty should be applied as a last resort and for the minimum necessary period. The rules also state that the deprivation of liberty should be limited to exceptional cases.<sup>26</sup> In addition, the rules require that the length of detention should be determined by a judicial authority, without excluding the possibility of early release, and that a state should set an age limit below which it should not be permitted to deprive a child of his or her liberty.<sup>27</sup>

While we accept that the UNJDL may not be legally binding on states, we nonetheless uphold that it establishes standards to which all UK Government agencies should aspire. On the balance of all available evidence, we do not accept that the detention of children and families can currently be regarded as exceptional, even in those circumstances where the rationale for detention is to keep the family unit together. Furthermore, there is no judicial oversight of the decision to detain children under immigration powers and no minimum age for detaining a child. In these respects, the UK's standards fall well short of the UNJDL rules.

The lack of solid statistical evidence as to the frequency of children's detention and of a system of judicial oversight means that it is hard for the Government to substantiate the claim that it only detains children as a measure of last resort and thus complies with the UNCRC.<sup>28</sup> 11 MILLION does not accept that the Government is able to demonstrate its compliance with Article 37 (c) of the UNCRC which requires that children be detained only as a last resort.

### **WHY ARE CHILDREN AND FAMILIES DETAINED?**

Children are detained when the immigration authorities consider that the family of which they are a part can be removed from the UK. The Children's Commissioner's visit to Yarl's Wood documented that the majority of the families detained at that time were unsuccessful asylum applicants. When the decision to detain them had been made, some of these families had been in the UK for a considerable amount of time (over 10 years).

The statutory powers given to the Home Secretary and to immigration officers to detain those who are 'subject to immigration control' are very wide and include substantial powers to detain children.<sup>29</sup> The arrest and detention of children takes place under powers to detain the 'family members' of a person who has been refused permission to enter<sup>30</sup> the country, such as an asylum seeker who has not met the criteria for refugee status or has previously failed to leave the UK when required to do so.<sup>31</sup>

Where a person is detained pending or following a decision to remove them, they are classed as an 'administrative removal case'.<sup>32</sup> There are no clear time limits on how long a child or an adult can be administratively detained.<sup>33</sup> Unlike criminal cases, there are no automatic, independent controls on the use of detention powers by the courts when administrative detention occurs.

Government policy also gives wide discretion to immigration officers and those acting for the Home Secretary to use the statutory powers available to detain families.<sup>34</sup> The most recent statement of the policy is contained in the Code of Practice for Keeping Children Safe from Harm.<sup>35</sup> While stating that 'there must always be a presumption in favour of not detaining a family' and that 'each family case must be considered on its individual merits', the Code lists a wide range of factors 'likely to contribute to a decision to detain'. For example 'having previously absconded, having previously failed to comply with conditions attached to staying in the UK or having previously failed to leave the UK when required to do so.' The Code is careful to note that 'as a list of factors that may be taken into account this is not exhaustive and may be added to or amended.'



Of particular significance for asylum seeking families whose claims have been unsuccessful is the factor of 'having previously failed to leave the UK when required to do so.' In practice, this means that administrative detention, with a view to removal, will be considered if the family does not take the initiative to apply for assisted voluntary return (AVR) once their appeal rights are exhausted. This is made explicit in the instructions given to UKBA caseowners.<sup>36</sup> We consider how AVR is offered below.

## **MANAGEMENT OF ASYLUM CLAIMS**

The management of asylum cases within UKBA was split in March 2007. Applicants who claimed asylum after 5 March 2007 have been dealt with under the New Asylum Model (NAM) in regionally based casework teams. UKBA's enforcement function was also regionalised, with enforcement teams operating within regions and responsible to regional directors.

Asylum applicants who had lodged claims before 5 March 2007, but whose cases were still open for various reasons, were allocated to a central department outside of the regional structure known as the Case Resolution Directorate (CRD). We regard it as very significant that all of the asylum seeking families we met during our visit to Yarl's Wood in May 2008 will have been under the management of CRD.

### **Case Resolution Directorate (CRD)**

The CRD inherited an asylum 'backlog' of up to 450,000 cases in 2007, which the then Home Secretary announced would be cleared by 2011.<sup>37</sup> The cases were a mixture of those who had applied for asylum but had not yet had any decision on their claim by 5 March 2007, and those where a decision on their asylum claim had been made but whose cases were still open because they had not left the UK or were awaiting papers or confirmation of their status. In many cases there had simply been no regular contact with the immigration authorities for years, a symptom of the casework problems that arose in the late 1990s and the early years of this decade.

Our concerns around the management of CRD cases fall into two main areas: the first being the way in which the length of residence in the UK is taken into consideration when determining a family's right to stay; and secondly the manner in which the decision to remove is taken.

**Length of residence:** 11 MILLION believes that CRD must give greater consideration to the length of residence of the family in the UK. In December 2008, the 'seven year child concession'<sup>38</sup> — a policy which required decision makers to consider regularising the stay of families where a child of the family had been in the UK for seven years or more — was withdrawn in favour of consideration under the Immigration Rules and Article 8 of the European Convention on Human Rights (ECHR) pursuant to the Human Rights Act 1998.<sup>39</sup> Article 8 requires decision makers to balance respect for family and private life. The fact that a child has spent a significant period of their life in the UK should continue to be an important and relevant factor to be taken into consideration by caseworkers when evaluating whether removal would be in accordance with Article 8 of the ECHR and the Immigration Rules. We hope that the new policy will recognise that seven years is too substantial a threshold for cases involving children, and that it will operate on a more generous application of the length of residence principle.

**Decision to remove:** 11 MILLION believes that caseworkers, who have a detailed knowledge of a family's case, are best placed to make a decision on whether detention is appropriate under the terms of Article 37(c) as a 'last resort', and thus set removal directions following a full Article 8 consideration. The decision to enforce removal should not be initiated by enforcement teams. Following careful reading of the Enforcement Instructions and Guidance, we conclude that it allows for enforcement teams to initiate the detention and removal process, rather than this being the function of casework staff.

36 — 'Refused applicants need to understand that enforcement action will be taken to remove them from the country when their appeal rights have been exhausted if they do not apply for AVR': Home Office (September 2006); The Case Owner's Workbook 12 – Case Completion; p 36.

37 — Home Secretary John Reid, 19.07.06.

38 — Home Office policy DPS/96.

39 — ECHR, Article 8 – Right to respect for private and family life: 1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

40 — Home Office; Enforcement Instructions and Guidance; chapter 45, para 1.3.

41 — This has been updated following our visit, please see the 'improvements since our visit' section later in this chapter.

42 — Home Office (September 2006); Workbook 12 - Case Completion; p 41.

43 — Home Office (2007); Statistical Bulletin: Asylum Statistics UK 2007, published 21.08.08.

“No action should be taken on (CRD) ...cases without checking if it has been reviewed by the Casework Resolution Directorate. If CRD confirm the family is removable, consideration should be given to the level of recent contact management...”<sup>40</sup>

The confirmation that a family is 'removable' does not in our view amount to a full and careful Article 8 consideration of the family's situation. Article 8 considerations must necessarily go beyond the narrow terms of eligibility for removal as established in the Enforcement Instructions and Guidance. We are concerned that regional enforcement teams rather than CRD's casework teams are initiating decisions on whether families should be removed and, if this is the case, whether Article 8 considerations are being rigorously applied before a decision is made to remove the family.

We feel that our concerns regarding the application of the Guidance were supported by the profile of families we met on our visit to Yarl's Wood.

## **EVIDENCE FROM FAMILIES AT YARL'S WOOD**

It was notable that, of the 20 adult family members who told us how long they had been in the UK during our visit to Yarl's Wood in May 2008, none had been in the UK for under a year and all would have been CRD cases. At least 17 of the families spoken to were part of the historic 'backlog' of asylum claimants whose situations are only slowly being resolved. Of the adults spoken to, two had been here for between one and two years, six for between two and five years, six for between five and seven years and six for between eight and 11 years.

The families told us arrest came as a shock and a surprise, and this significantly increased the stress of the event for both children and adults. Many families told us that, prior to their arrest, they had been doing everything that was being asked of them by way of complying with conditions imposed by the immigration authorities, for example signing on regularly at an enforcement office and living at a particular address. Out of the 20 families spoken to, five had actually been arrested at the enforcement offices when they went to sign on. For these families, more must be done to ease the undeniable shock of removal, enabling them to say goodbye to friends and neighbours and to make adequate provision for their belongings.

## **THE NEW ASYLUM MODEL (NAM)**

Analysis of the training materials provided to NAM caseworkers, in operation since April 2007 and in effect at the time of our visit, indicated to us that the detention of families was not reserved for use as a genuine 'last resort' as required by the United Nations Convention on the Rights of the Child (UNCRC) or 'exceptionally' as required by the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (UNJDL).<sup>41</sup> Rather, it appeared to be used as routine procedure where a family did not apply for voluntarily departure after the failure of their appeal.

We believe that these casework instructions presumed that applicants will need to be removed, rather than that they can be persuaded to leave voluntarily. For example, caseowners were required to 'initiate the enforcement process before the applicant becomes appeal rights exhausted',<sup>42</sup> even though Home Office statistics for 2007 indicate that 23% of those appealing were successful in overturning the Home Office decision to refuse refugee status.<sup>43</sup>

Forced removal should not be an assumption built into the caseworking model but rather the end of a detailed process of dialogue with a family that addresses the real barriers they face to return. Such a model presupposes that the applicant has been through a fair determination process that has properly considered their protection needs. NAM offers the potential for a fairer process to a far greater degree than the previous arrangements. However, it is our assessment that this potential has yet to be fully realised.

UKBA has recently supported an 'early legal advice pilot' in Solihull, which guaranteed applicants a legal representative before their crucial asylum interview. Having seen the evaluation of this pilot, 11 MILLION believes that it represents a substantial improvement in decision making, delivering a fairer, more transparent experience. This mitigates the inevitable disappointment of a negative outcome and has the potential to improve the openness of the applicant to consider Assisted Voluntary Return (AVR). The evaluation states in its executive summary:

"Caseowners and legal representatives both reported that they thought there was a greater understanding and acceptance by the application of the reasons for a negative decision. Caseowners and legal representatives commented that because the applicant had been involved throughout the whole process the applicants seemed to appreciate that they had been able to put their case fully"<sup>44</sup>

Caseowners in the Solihull Pilot reported that:

"...they felt the overall close contact with the applicant and the legal representative helped in the respect of effecting a removal if the application was ultimately refused".

11 MILLION believes that the success of this pilot should be built upon, to ensure that detention is genuinely used as a last resort and for the shortest possible duration.

### Expanding the use of Assisted Voluntary Return (AVR)

Under NAM, a caseowner based within one of the regional asylum teams is 'responsible for the end to end management of an applicant's case through the asylum system to integration or removal.'<sup>45</sup> As the Solihull pilot demonstrates, there are improvements that can be made to increase take-up of voluntary departure.

Currently, caseowners are instructed to ensure that applicants are aware of their 'liability to detention' if they have exhausted their right to remain in the UK, and caseowners' training materials give guidance on when information about AVR is to be provided to applicants.

Training materials seen by 11 MILLION emphasised that voluntary return is discussed at the same time as an applicant is served with the decision to refuse them asylum and is outlined in the letter stating the reasons for refusal.<sup>46</sup> UKBA accepts that being told that asylum has been refused is likely to be difficult for an applicant.<sup>47</sup> Evidently, at this juncture, asylum seekers are going to be more concerned with the reasons for the refusal of their claim and their right to appeal the decision.

It is our view that expecting an applicant to give consideration to AVR in the highly charged environment of the decision interview is unlikely to be effective. Yet, for applicants under the NAM, this is the last scheduled opportunity for face to face communication between a caseowner and the applicant with an interpreter present.

In our view, families are likely to be more amenable to considering voluntary return once their case has run its legal course, which must mean after the appeal has been determined and dismissed. Further opportunities to discuss a family's situation, following the final determination of their case, must be routinely scheduled and the lines of communication must remain open at UKBA's instigation, without waiting for families to take the initiative.

44 —  
Aspden J (October 2008);  
Evaluation of the Solihull Pilot  
for the United Kingdom Border  
Agency and the Legal Services  
Commission; p 15.

45 —  
Home Office (September 2006);  
Case Owners' Workbook 2 -  
The End-to-End Asylum Process;  
p 21. It is noteworthy that the  
term 'removal' rather than the  
more neutral term 'departure'  
is used throughout the  
training workbooks, implying  
an expectation that most  
unsuccessful applicants will not  
leave the UK voluntarily.

46 —  
UKBA refer to this meeting as  
the 'decision service event'.  
Home Office (September 2006);  
Case Owners' Workbook 12,  
Section 4 - Dealing with refused  
applicants.

47 —  
Home Office (2006), *ibid.* p 35:  
'The decision service event for  
a refused applicant is unlikely  
to be a positive experience  
for them. The applicant may  
display a range of emotions,  
including concern and anger.  
But you must remain objective,  
providing the necessary  
information and encouraging  
the applicant to consider the  
options available to them.'

## IMPROVEMENTS SINCE OUR VISIT

Assisted Voluntary Returns (AVR): We have noted the UKBA response that they updated their guidance for caseowners on AVR on 24 April 2008. While we have not yet received a copy of this guidance, we understand that it advises caseowners to engage fully with the head of the household, explaining the benefits of AVR and noting their reaction. These conversations are to be noted on the Family Welfare Form. Furthermore, UKBA state the 'possibility exists' for caseowners to arrange further reporting events to discuss AVR or collate additional information on health, education or special considerations. Whilst these moves have the potential to make improvements in this area, we look for detail on how these policies are applied in practice, in particular how families are made aware of the facility to discuss their options relating to AVR.

## RECOMMENDATIONS

.....  
**4.1** ..... The UK Government should comply fully with international standards for the detention of children as set out in the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Rules on Juveniles Deprived of their Liberty.

.....  
**4.2** ..... UKBA needs to find ways of working with families whose claims are unsuccessful within the community, so that they can continue to access services their children need while being prepared for departure.

.....  
**4.3** ..... Information to support voluntary departure should be delivered when families' appeal rights are exhausted, recognising that they are unlikely to be open to return whilst their claim is outstanding. Ongoing face to face opportunities to identify and address barriers to departure and appropriate support should be provided for those families unable to remain.

.....  
**4.4** ..... The detention of families should never be a surprise. For those families not choosing voluntary departure, and who are liable for removal, UKBA has an obligation to prepare them for return, including the possibility of detention prior to removal.

.....  
**4.5** ..... The length of time a child has lived in the UK should inform the decision on whether or not to enforce removal. This is in line with the 'best interests' principle enshrined in children's legislation and the UNCRC. The previous threshold of seven years of residence for a child before settlement was considered was too long. A lower threshold should now be adopted by casework staff.

## ARREST

5

There appear to be significant discrepancies between policy instructions and what, in practice, happens to children and families during arrest. Based on what children told us and what children told their teachers in the children's forums at Yarl's Wood over an eighteen month period, we conclude that arrest teams were not adhering fully to current instructions. Had they done so, the distress and anxiety of children and their families during this difficult process would have been reduced. We have drawn these issues to the attention of the Chief Inspector of the UK Border Agency (UKBA) for possible consideration as part of his inspection programme.

This chapter examines what children and their families say about their experiences of arrest in comparison to what guidelines state should happen. The use of control and restraint, the loss of personal belongings and conditions during the transportation to Yarl's Wood raised noteworthy complaints from children.

### TIME AND PLACE OF ARREST AND SIZE OF ARREST TEAMS

The UKBA Enforcement Instructions and Guidance<sup>48</sup> state:

- Visits should not be conducted before 0630hrs unless a specific risk assessment indicates that an earlier visit is required (45.2.5)
- Numbers of staff will be determined and justified through the risk assessment and on information established through contact management (45.2)
- The Officer in charge of the detention should record the reasoning behind the number of officers and the time of day should be noted (45.2.1)

Of the 20 families spoken to during our visit, 15 had been arrested at home and the other five at the enforcement offices where they had gone to register. All the home arrests had taken place in the mornings. According to children's accounts, some were still asleep when the arrest teams arrived.<sup>49</sup> Children mentioned the distress of having strangers get them out of bed and having insufficient time to awaken before demands were put on them.

Although we recognise that we do not know all the factors relating to these cases, including potential risks during arrest, children and families consistently told us that they felt the number of officers was overbearing. The size of the arrest teams varied considerably, but some contained large numbers of officers.<sup>50</sup> One couple with two children under five reported "over 20" officers entering their house; and another couple, with two children under four, counted 11 officers. A single woman with a one year-old had 10 officers turn up to arrest her and another single parent with two children under four had nine officers present. The lowest number of officers reported on an arrest visit was five in the case of a single woman and her baby of less than one year.

Of the five families arrested at a local enforcement office when routinely signing on, three told us that they were not permitted to return home before being taken into detention, while two were allowed to go home briefly to collect belongings. In some cases, keys were taken away from the detainee so there was no possibility of retrieving property through friends. The instructions make no reference to whether this is legitimate. It is suggested in the Enforcement Guidance that detainees can phone family and friends

48 — UKBA; Operational Enforcement Activity, Enforcement Instructions and Guidance; chapter 45 - Family Cases. This can be found at: [www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/ceemsectione/](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/ceemsectione/)

49 — Information from children we interviewed and minutes of children's forums from 11.06.07, 30.10.07 and 18.04.08.

50 — Children specifically mentioned the size of arrest teams at the children's forums on 16.05.07 and 06.06.08. In the latter case, five car loads of officers arrived to arrest a family of five.

51 — Children's forum minutes 11.03.07.

52 — The instructions say that enforcement teams should contact the accommodation provider and 'obtain keys where possible'.

53 — Children's forum minutes 24.08.07.

54 — Children's forum minutes 24.08.07.

55 — Children's forum minutes 24.08.07.

56 Children's forum minutes 27.08.07, 10.10.07, 15.11.07, 25.01.08, 23.03.08 and 12.04.08.

57 — Children's forum minutes 12.04.08.

58 — Children's forum minutes 15.11.07.

from detention to recover property. We have been told that National Asylum Support Service (NASS) accommodation providers will allow access by a detainee's friends or family. However, we have yet to see evidence of how this works in practice and there is no policy in the public domain regarding the storage and retrieval of property.

### METHOD OF ENTRY TO HOMES

Forced entry to homes was the exception, although children in one forum session described how their doors had been "kicked open".<sup>51</sup> Sometimes, keys had been obtained and entry was affected without notice or permission.<sup>52</sup> Children felt strongly that this was an invasion of their privacy<sup>53</sup> and all said it was unnecessary. One child reported to the forum that officers "let themselves in and ran through the house shouting".<sup>54</sup>

"When they come to get you to take you to the detention centre, they knock on your door like they are going to break it. They should wake us up gently, not just shouting. They could call through the letterbox and if the person doesn't wake up then shout but not break the door down. Also just having the key and going inside the house shows no respect. They should have a bit more manners. I do understand they need to wake us up and we've got to listen to them but sometimes those people go a bit too far." — Girl, eight.

This account is consistent with what children told the teachers at the forums - the knocking was described as "very loud", "loud hammering", "fierce", "terrifying" and "almost breaking it down". All the children felt that this was completely unnecessary and that ordinary knocking following by waiting to be admitted would be sufficient and would show some respect.

### BEHAVIOUR OF OFFICERS

The enforcement guidance does not refer to how officers should behave during detention visits. In a large majority of cases children reported that officers' behaviour after entry to the house had been aggressive, rude and, on a few occasions, violent. One child said an officer had called his mother "stupid" and laughed at her crying and distress, while others were told that it was "tough" if they didn't like the officer's attitude.<sup>55</sup> Children reported officers "shouting", having a "bad tone of voice" and being "rude".<sup>56</sup> Some children described officers as taking pleasure in the family's distress, including telling them that they were "going back to their own country"<sup>57</sup> and laughing and making fun of them when they showed signs of distress or anxiety.<sup>58</sup>

"There was this woman, just shouting, shouting at my sister to get up. She was in bed asleep and she's only five so she was crying and the woman just kept shouting at her. She didn't have to do that. The search was bad. Why did they have to search my sister? She is only five, what is she going to have? They touch you all over and they're rough. It's rude." — Boy, 11.

### Control and restraint

The Enforcement Instructions and Guidance are clear about when control and restraint can be used on children:



“The control and restraint of children and young people must be limited to circumstances where it is necessary for an officer to use physical intervention to prevent harm to a child or any individual present. Force must **NOT** be used simply to enforce the removal of children where there is no threat of violence. On every occasion when force has been used against a child a comprehensive incident report must be completed as soon after the operation as is practicable. A copy of the report must be sent to the officer of the Agency’s Children’s Champion.” (45.2.10)

During our visit, an 11 year-old told us:

**“They pushed me on the floor and got my hands behind me (demonstrated how he was on floor) then they took me to the van. I was on my own in the van. I didn’t know what was happening to my family.”**

A 13 year-old and his father both showed the Children’s Commissioner bruising on their forearms. The boy said he had been tripped up and pushed to the floor by an arresting officer.

These incidents do not appear to be isolated. Children reported in the forums that they had been restrained unnecessarily. One child said that an officer grabbed him by the wrists while still in the house and another that his arms were held firmly while being taken to the van.<sup>59</sup> One child did not understand why he had been “grabbed and restrained by the wrists” while trying to pack his things as he said he was not trying to run away.<sup>60</sup> Another child stated that two officers had held his arms and manhandled him when he had done nothing.<sup>61</sup> Another reported being “dragged” out of home in front of neighbours,<sup>62</sup> and another that he had been “held” by officers, making him feel frightened and degraded.<sup>63</sup>

We do not know how many of the instances reported to us or through the children’s forums were reported by the arrest teams to UKBA’s Children’s Champion, as required by the instructions, but this should be monitored. Failure to report any instance of restraining a child to the Children’s Champion should automatically be considered a disciplinary matter.

### Restraint of parents in front of their children

The Enforcement Instructions and Guidance state:

“The restraint of adults during a family detention visit should not be routine, given the effects that this may have on the child/children.” (45.2.10)

In the case of three families we spoke to, it was reported that at least one member of the family had been handcuffed. A single woman said to us that she had been handcuffed in front of her children, aged one and three, after “panicking” when she was told that she had only three minutes to pack. She later became so distressed at being handcuffed that she tried to strangle herself with her son’s shoelaces in the van transporting her to Yarl’s Wood. She told us that she cannot erase the image of being put in handcuffs from her mind. She said that both of her children had been deeply scarred by what happened and were exhibiting disturbed behaviour, such as soiling and wetting the bed, hiding under tables and clinging to their mother.

During the forums, children reported that they had witnessed a parent being handcuffed<sup>64</sup> and, in one case, a boy’s mother was “treated roughly” by officers.<sup>65</sup>

59 —  
Children’s forum minutes  
16.05.07.

60 —  
Children’s forum minutes  
03.05.07.

61 —  
Children’s forum minutes  
06.06.08.

62 —  
Children’s forum minutes  
10.10.07.

63 —  
Children’s forum minutes  
11.03.08.

64 —  
Children’s forum minutes  
06.06.08.

65 —  
Children’s forum minutes  
27.08.07.

### TIME TO PACK BELONGINGS AND CONTROL OVER WHAT CAN BE TAKEN

The Enforcement Instructions and Guidance state:

“Adequate time should be allowed for a family to pack their belongings. A period of 30 minutes should be considered as a minimum to allow for packing, depending on a dynamic risk assessment. This period can be curtailed should the risk of remaining in the property be high... When packing belongings, families should be advised to consider the needs of their children and themselves while in detention as well as post-removal e.g. clothing, baby equipment. Relevant belongings should also extend to any UKBA documents; solicitor’s contact details and any friends or family contact details. Families should be made aware of the baggage allowance limited by airlines and the facility for friends/family to arrange this on their behalf while they are in detention.... The Officer in Charge should... ensure that all important documents, medication and belongings have been packed.” (45.2.13)

One of the most frequent complaints from both children and their parents was not being given sufficient or, in some cases, any time to pack and being prevented from bringing their belongings with them. We are concerned that the instructions are either being widely ignored or arrest staff are routinely utilising the clause that allows them to curtail time for packing. Hardly any of the children or the families we spoke to told us that they had sufficient time to pack. Limiting the time to pack and preventing property from being taken causes considerable distress to both adults and children.

One 11 year-old told us:

**“We didn’t have time to collect anything and we don’t have any personal belongings, clothes or anything. They even take your phone.”**

There were many instances reported to us of parents being given no time to pack and not being informed about what would happen to their belongings. In one case, we were told that arrest staff collected some baby clothes for a single woman’s baby but did not allow her to pack clothes for herself. One single parent with two small children told us that, while the officers had been “quite polite” and had given her time to “get a few belongings”, she was told that she did not need to take much as “they would come back for everything else”. This resulted in her leaving behind important items and documents. After five days in Yarl’s Wood she had no further information about her belongings. A couple with two small children told how they were prevented from collecting money and jewellery, as well as clothes. They had not been told how they could get them back.

Several families also told us how they were denied access to their or their children’s medication. One family with two children suffering from sickle-cell anaemia were prevented from collecting antibiotics and folic acid that the children needed and had only managed to get medicine for the children again some days after arriving at Yarl’s Wood. One parent was denied the chance to take his regular medication. His son told us:

**“They took my dad’s medicine off him. He’s a diabetic — why did they have to take it off him? It was a long journey here as well.”**

One family had arranged for another family that had been sharing their house to collect their belongings and bring them to Yarl's Wood, but this was the exception.

In the children's forums, lack of sufficient time to pack was highlighted, with some children stating they had been told they only had 10 minutes.<sup>66</sup> Children were very concerned about being prevented from taking their belongings and, in particular, treasured items such as shoes,<sup>67</sup> CDs,<sup>68</sup> clothes,<sup>69</sup> school books and PlayStations,<sup>70</sup> which caused them feelings of loss. Children taken to detention after signing on at the enforcement office or taken direct from school were not allowed to return home to collect belongings.<sup>71</sup>

One seven year-old boy asked us during the visit: "What happens to all our things?" The Instructions and Guidance are silent on what happens to belongings – including money and jewellery – that detainees are forced to leave behind. UKBA accepts the need to do more work around the topic of belongings that are left behind. The current lack of transparency is unacceptable and greater clarity is required on what happens to belongings and how families can reclaim them.

Because of the length of time most of the families had been in the UK, they had accumulated significant amounts of personal belongings. Some had brought family jewellery with them to the UK, which they had been prevented from collecting. Children had accumulated toys as well as favourite clothes, DVDs and CDs. The loss of personal possessions is one of the most de-humanising aspects of the arrest process for adults and children.

## **GETTING DRESSED AND ACCESS TO THE BATHROOM**

The Enforcement Instructions and Guidance state:

"It is important that all members of a family are 'shadowed' as they prepare to leave the house. A female officer should be present where a female is dressing. The kitchen and bathroom should be cleared of any potential dangerous items. If a person wishes to use the bathroom, a check should be made first for any items which could be used to self-harm or injure others. You should not allow any doors to be locked from the inside." (45.2.5)

Many of the children complained that they found it embarrassing getting dressed in front of strangers; and children in the upper school forum told their teachers on two occasions that officers of the opposite sex had watched them get dressed.<sup>72</sup> UKBA have told us that enforcement teams are mixed gender 'wherever possible'. It is unacceptable that a child should be watched getting dressed, or searched by, someone of the opposite sex. This represents a safeguarding risk which must be addressed immediately.

The instruction 'not to allow doors to be locked from the inside' meant that, in practice, children were made to leave the door open when going to the lavatory, rather than simply leaving it unlocked, which they found acutely embarrassing.<sup>73</sup> Some children told us they were denied access to the use of a toilet after the arrest team arrived even though they had a long journey in front of them.<sup>74</sup>

## **TRANSPORT TO YARL'S WOOD**

Yarl's Wood is the principal immigration removal centre in the UK for accommodating families.<sup>75</sup> This means that detained families frequently have long journeys to reach the centre. The arrangements for transporting families, including what they are allowed to eat and drink before departure, the information they are given, the arrangements for their physical comfort during the journey and the vehicles used are frequently traumatic for children and adults.

66 —  
Children's forum minutes  
16.05.07, 27.08.07, 30.10.07,  
15.11.07, 25.01.08, 27.05.08,  
06.06.08 and one undated  
record.

67 —  
Children's forum minutes  
11.06.07 and 18.04.08.

68 —  
Children's forum minutes  
27.08.07, 25.01.08 and one  
undated record.

69 —  
Children's forum minutes  
18.04.08.

70 —  
Children's forum minutes, one  
undated record.

71 —  
Children's forum minutes  
10.10.07.

72 —  
Children's forum minutes  
10.10.07 and 12.04.08.

73 —  
Children's forum minutes  
16.05.07, 11.06.07, 10.10.07,  
30.10.07 and 27.05.08.

74 —  
Children's forum minutes  
16.05.07 and 25.01.08.

75 —  
Tinsley House near Gatwick  
and Dungeness in Scotland  
have more limited facilities for  
families.

76 —  
Children's forum minutes  
16.05.07, 10.10.07 and one  
undated record.

77 —  
Children's forum minutes  
18.04.08.

78 —  
Children's forum minutes  
16.05.07, 27.08.07, 25.03.08  
and 27.05.08.

79 —  
Children's forum minutes  
25.01.08.

80 —  
Children's forum minutes  
11.01.08.

## **ACCESS TO FOOD AND WATER BEFORE DEPARTURE**

Although there is no guidance provided on ensuring children are fed and are not thirsty before they are escorted to detention, a number of children spoke in the forums about being denied access to food and water before departure.<sup>76</sup> A rare example of good practice was an officer who made a child breakfast when they were not allowed back into the kitchen.<sup>77</sup> Whilst children may be given refreshment when they are taken into holding rooms before the second stage of transportation to detention, we believe that children's need for food and water should be met before departure and the guidance amended to ensure this happens.

## **INFORMATION ABOUT WHERE DETAINEES ARE BEING TAKEN**

The Enforcement Instructions and Guidance tell officers to:

"Explain to the family where they are being taken, how long the journey will take, what facilities there are at the removal centre and that they will have a chance to telephone their representative from the removal centre." (45.2.5)

"Families should not be separated during transport unless there is good reason for doing so, where for instance an adult has threatened a child." (45.2.15)

Despite these instructions one child we spoke to told us:

**"It's a long journey and we don't know anything, they don't tell us anything".**

Anxiety about what was going to happen was compounded by a lack of information or incorrect information given by arrest officers and/or escort staff. Most frequently, the explanation given to families was that their applications to stay had failed and that they were to be removed from the country, or that a flight had been booked. Some were given flight times or told which plane they were going to catch. They were not always told that they were going to Yarl's Wood. Children were most anxious about being placed in separate vans from a parent and having their phones confiscated so they could not communicate with them during their journeys.

The lack of explanation as to where the family was being taken caused children considerable anxiety - particularly where families were split up and taken in different vans. Children told the teachers at Yarl's Wood that they did not know where they were going or if they were going to the same place as a separated parent and if, or when, they would be able to speak to other family members again.<sup>78</sup> Other children were not told the truth about where they were going,<sup>79</sup> or were given incorrect information. One child was told he was "just going down the road" and thought he would only be away for a few hours.<sup>80</sup>

We acknowledge that communicating these difficult concepts to children requires a particular set of skills which enforcement staff and escorting staff may not currently possess. However, this should be addressed through appropriate training, by providing interpreting services during the arrest and transportation processes, and through the use of maps and visual aids to explain the journey to children.

The current procedure of authorising 'dynamic' (i.e. unplanned) family splits after the families' arrival in detention is unsatisfactory. The separation of a child from its parent during transportation is a serious event and must be sanctioned in advance of the journey at an appropriately senior level. An agreed procedure must be in place to explain any decision to separate a child from their parent to the child in question.



## CONDITIONS DURING TRANSPORT TO DETENTION

“We do not use caged vans, we use people carriers”

(Lin Homer, UKBA Chief Executive, BBC Radio 4 Woman’s Hour, September 2008).

The Enforcement Instructions and Guidance state:

“Families should not be transported in caged vans unless the risk assessment dictates otherwise.” (45.2.15)

During our visit, children and parents at Yarl’s Wood told us that they felt “like criminals” when they were placed in caged vans for transportation to detention. Their treatment during transportation impinged upon their dignity and was not consistent with humanitarian principles.<sup>81</sup>

“Why do they have to put us in cages?”

— Girl, 11.

In the children’s forums, vans were described as “caged” or with “bars” on at least five occasions. UKBA have confirmed to 11 MILLION that whilst enforcement teams do not use caged vans during the ‘first stage’ transport of families from home to the reporting centre, contractors do sometimes use caged vans during the ‘second stage’ transport of families from the reporting centre to Yarl’s Wood or other Immigration Removal Centres (IRCs), this often comprising the longer journey.<sup>82</sup> A UKBA contractor has confirmed they use mini-bus vans where “partitions in the vehicle and the inner door are made of metal mesh”.<sup>83</sup> Children’s main concern was that this made them feel, and look, like criminals or animals.<sup>84</sup> Children described the vans as “airless”, “dirty”, “stinking of urine”, and “stained with urine and vomit”,<sup>85</sup> and on another occasion as “hot, airless, smelling badly, windows don’t open”<sup>86</sup> and “airless and unpleasant”.<sup>87</sup> We understand that the current contractor intends to increase the use of vehicles with a clear Perspex partition, however UKBA have confirmed that there is no timetable or budget in place to end the use of caged vans for these second stage family removals.

The journeys were described as long, boring, cramped and uncomfortable<sup>88</sup> and the vans travelled too fast, which was frightening and made the journey more uncomfortable.<sup>89</sup> In many of the forums children complained about the lack of comfort breaks on the long journeys to detention. This had led to “accidents” in some cases.<sup>90</sup> Comfort breaks were denied even when the vans stopped for petrol<sup>91</sup> and, on at least two or three occasions, access to a toilet was denied throughout the whole journey despite urgent requests to stop.<sup>92</sup>

The lack of any food and drink on the journey was a complaint raised by many children,<sup>93</sup> while others said insufficient water or food had been provided.<sup>94</sup> One family told us that during a four hour journey to Yarl’s Wood they only stopped once, to get some papers from a police station, and they were not offered anything to drink or eat for the whole journey. Their youngest child had an asthma attack during the journey.

The attitude of escort staff was often felt to be offensive. During our visit one child said to us: “The drivers were laughing. Why were they laughing at us?” Children told the teachers at Yarl’s Wood that they felt they were being laughed at or that the escorts found their situation funny,<sup>95</sup> with one child reporting that the escorts had laughed when his mother had suffered a panic attack. We were told that escorts also talked about inappropriate or offensive things in front of families and swore a lot.<sup>96</sup> One boy said that his phone had been broken by escort staff.<sup>97</sup>

## IMPROVEMENTS SINCE OUR VISIT

Behaviour of officers: We are pleased to note the behaviour of officers and the impact of that behaviour on children is part of the Tier 3 Keeping Children Safe training, which is being rolled out nationally. We look forward to seeing an evaluation of this training in due course.

81 —  
See Article 37(c) of the UNCRC.

82 —  
Stated by UKBA staff at a meeting with 11 MILLION, held at 1 London Bridge on 05.02.2009.

83 —  
UKBA (09.03.2009): 11 MILLION report on the detention of children and young people in Yarl’s Wood Immigration Removal Centre – Initial Comments from Operation Policy on factual accuracy in Chapters 2 and 3. The decision to detain and arrest.

84 —  
Children’s forum minutes 15.11.06.

85 —  
Children’s Forum Minutes 30.10.07, 11.01.08, 23.02.08, 12.04.08 and 18.04.08.

86 —  
Children’s forum minutes 16.05.07.

87 —  
Children’s forum minutes, one undated record.

88 —  
Children’s forum minutes 16.05.07.

89 —  
Children’s forum minutes 12.04.08 and 06.06.08.

90 —  
Children’s forum minutes 15.11.06.

91 —  
Children’s forum minutes 16.05.07.

92 —  
Children’s forum minutes 11.01.08 and 25.01.08.

93 —  
Children’s forum minutes 16.05.07, 11.01.08, 25.01.08 and one undated record.

94 —  
Children’s forum minutes 16.05.07, 30.10.07 and 08.04.08.

95 —  
Children’s forum minutes 16.05.07 and 30.10.07.

96 —  
Children’s forum minutes 16.05.07, 30.10.07 and 06.06.08.

97 —  
Children’s forum minutes 25.01.08.

Use of force: 11 MILLION welcomes proposals by UKBA to review the policy on the use of force. From April 2009 changes are proposed to the National Operational Database on which is recorded the details of each visit. It is proposed that any use of force will have to be noted, which will allow electronic monitoring. UKBA acknowledge that, “the effect on a child of force on a parent can not be underestimated”. We are pleased therefore that this is explored in the Tier 3 Keeping Children Safe training, which is currently being rolled out.

Belongings: UKBA is looking to publish further guidance on belongings. We hope that this will address our concerns both about the storage and retrieval of belongings left behind, and further resolve confusion about what should accompany families to detention.

Medication: We are pleased that the Tier 3 Keeping Children Safe training covers medication and that the guidance on medication is being reviewed. This covers issues such as officers being aware of what medication each member of the family is on in advance of the visit, and should ensure all available medicine is bagged and handed to the escorts or holding room staff.

Mobile phones: UKBA have acknowledged that there is currently a gap in policy with regards the confiscation and use of mobile phones. They do not currently have written guidance on this topic, and we welcome their plans to action this in future.

Behaviour of contracted staff: It is welcome that UKBA recognise that contractor staff have specific training needs that must be addressed with regards to appropriate behaviour towards the children they are transporting to detention. We hope to receive further details on the roll out and implementation of this training, and in particular how it addresses safeguarding issues.

## RECOMMENDATIONS

.....  
: : : : : When a child is deprived of his or her liberty, particular care must be taken  
: **5.1** : : : : to ensure that they are treated with humanity and respect for their inherent  
: : : : : dignity, taking into account their age and maturity. This principle should  
: : : : : inform the behaviour of enforcement teams and escort staff and the arrangements for  
transportation.

.....  
: : : : : UKBA should develop draft policies and procedures on a process for the  
: **5.2** : : : : security, inventory, storage, return or disposal of any items of property not  
: : : : : accompanying a person to immigration detention. Instructions and guidance  
on the processing of such items should be public and available to detainees on arrest  
and during their detention.

.....  
: : : : : In compliance with the United Nations Convention on the Rights of the Child  
: **5.3** : : : : (UNCRC) (Article 37), restraint must only be used in exceptional circumstances  
: : : : : and as a last resort and only when the child poses an imminent threat of injury  
to her/himself or others. UKBA must be fully accountable for any instance of the use of  
control and restraint against a child or on a family member. All such incidents must be  
treated as serious incidents, logged, and fully reported to the Regional Director and to  
UKBA’s Children’s Champion.

.....  
: : : : : To minimise distress during arrest and removal to detention, information must  
: **5.4** : : : : be provided to families explaining what is happening, where they are going,  
: : : : : how long it will take and arrangements for breaks and refreshments. Children  
should not be separated from their families during removal to detention.

.....  
: : : : : Complaints systems should be reviewed, with a view to providing mechanisms  
: **5.5** : : : : that better meet the particular needs of children. It should be recognised  
: : : : : that the current system does not mitigate detainees’ concerns that complaining  
may negatively influence the outcome of their case.

## CHILDREN'S CONCERNS DURING DETENTION

6

Children detained at Yarl's Wood are caused significant distress by the number of simultaneous changes to their lives. This often involves concern about siblings and parents, the loss of belongings, pets, contact with friends, and the general familiarity and routine of life. There is a clear need for improved emotional support, and counselling where necessary, to help alleviate the negative aspects of their detention.

This chapter presents the views, opinions and feelings of school age children at Yarl's Wood,<sup>98</sup> followed by a number of practical recommendations. Comments are drawn from feedback from children during the Children's Commissioner's visit as well as information from the minutes of some children's forums.<sup>99</sup>

### CHILDREN'S FORUMS

The children's forums are convened by the teachers in the upper and lower schools at Yarl's Wood, usually on a fortnightly basis. They are designed to obtain children's views on detention, the regime and the events surrounding their detention.<sup>100</sup>

The use of children's forums as a mechanism for obtaining their views was recommended by the Children's Commissioner following his first visit to Yarl's Wood in October 2005 and we are pleased that the current management has implemented this.

The minutes of the forums are distributed to the relevant departments within Yarl's Wood for comment, including the UK Border Agency (UKBA) when the matters raised involve arrest, escort or immigration related issues.

### LOSS

Issues regarding the loss of friends emerged during our visit as an important aspect of children's feelings about being detained. They were also upset about leaving pets behind.

Nearly all the children spoken to during the visit told us that they hated being at Yarl's Wood and that they just wanted to be back in their home, in their home town and with their friends and family. They also wanted to be able to return to their school and have the opportunity to continue with their studies and leisure activities with their friends.

"I would be happier if they put us closer to Manchester - not happier but feel better. That's where I have lived for the past three and half years and all my friends are there. Only one of them knows I am here."

— Boy, 14.

"I hate, I repeat HATE Yarl's Wood, I never wanted to come here, I just wanted to stay in this country, in Manchester near my friends."

— Boy, 14.

98 —

The 11 MILLION visit team worked with a group of eight children aged between eight and 17 during the visit.

99 —

We have not included children's descriptions and comments on arrest and escort arrangements in this chapter as they have been covered in the previous chapter.

100 —

Interview with Serco's Assistant Director for Children and Families, 16.05.08.

101 —

UKBA; Enforcement Instruction and Guidance, *ibid*; para 45.2.13.

102 —

Mobile phones appear to be confiscated because of the built-in camera on most phones (photography is prohibited in detention centres) and the risk of detainees contacting friends or supporters who may disrupt the arrest process.

103 —

What happens to pets found in a property during the arrest process is discussed at chapter 45.2.14 of the Enforcement Instructions and Guidance. While it is clear that there are a number of options open to arrest teams, there is no mention of communicating information about a pet's fate to the detained family.

One child asked us what the time was. When we replied with the time and the day he appeared sad and told us,

"Oh, I thought it was a Saturday. If it was a Saturday I would be swimming with my friends now."



(9:00am: is a Sunday and I want to play football and I support Liverpool).

Children were missing their friends and were affected by being unable to say goodbye. Whilst enforcement guidance and instructions direct arrest staff to ensure that children have the opportunity to bring the contact details of their friends with them to detention, children still appear to go to detention without key contact details.<sup>101</sup> There should be a comprehensive checklist for arrest teams to use which, among other things, ensures children bring friends' details with them. The checklist should be signed off by the family on leaving the property. Whilst mobile phones are confiscated on arrest, they should always be brought by arrest teams to detention to ensure children are able to access the SIM card once in detention.<sup>102</sup>

Many of the children were left worried and sad about pets which had been left behind. No information had been given and they had no idea of what had happened to them. Children felt guilty and distressed at leaving their pets, and were particularly anxious to know whether they had been put to sleep or re-homed. Since not knowing what happens to pets is particularly difficult for children, we recommend that families are asked if they have pets, and fully informed about the arrangements which are in place for tracing what has happened to them. Where possible, families should be provided with a way of making contact with the person or agency to which the pet has been sent.<sup>103</sup>

### WORRIES ABOUT PARENTS, SIBLINGS AND THE FUTURE

School age children appeared protective of their younger siblings and parents. They were particularly angry about what had happened to their parents and younger siblings during arrest, but also worried about the uncertainty that faced them.

A boy of 14 spoke to us about his family's anticipated removal from the UK the following day. Due to his relatively high level of spoken and written English, he had been the main channel of communication between officials at the centre and his parents. Moments before we left he came to tell us very excitedly that he had just found out that his family had been granted more time to appeal to stay in the UK. It appeared to us that he

had been carrying a lot of responsibility in his role as interpreter, without appropriate support. Such experiences are likely to be replicated in other children whose language and literacy skills are greater than that of their parents, and yet there does not appear to be any service available that might support them in such a responsible role. Whilst we understand that the policy is to not use children as interpreters, from the accounts given to us and written records seen it is clear that this does happen. UKBA must take responsibility that it, and its contractors, ensure that at all times appropriate interpreting services are available. The position should never be that children are used to interpret for their parents, even when this is at the parent's request.

Some children told us about their fears for the future and that they felt they had been given little or no information about what was going to happen to them or their families once they were removed. Many children spoke of the worry about where they would live if they were sent to a country that some had not seen or visited before or could hardly remember.

**"I am worried about going back to Pakistan, it isn't safe, and it's dangerous."** — Boy, 14.

**"We're supposed to go tomorrow but we don't know when or what time or anything. They could tell us more."** — Boy, 14.

## **THE DETENTION ENVIRONMENT**

Children also told us what they thought about the environment at Yarl's Wood. Their main concerns included the way rooms were decorated and the outdoor facilities.

Our impressions of the environment both inside Crane Unit and outside in the courtyard area were that they were quite bleak and grey. While attempts have been made to decorate the corridor leading to Crane Unit with pictures and paintings, once inside the unit the environment becomes stark and lacks warmth and comfort.

At the time of our visit, the outdoor playground facilities were situated in a square courtyard and, although children's play equipment had been provided, the area was surrounded by four walls and was mostly concreted over. There was no art work or paintings on the walls to make it more visually appealing for children and the overall feel of the area was, in our opinion, depressing. We are pleased to note the progress made on developing the outdoor play facilities, including the laying of astroturf and an all weather play area for the crèche.<sup>104</sup>

**"I'd change the playground and make it real grass so that when we fall off we don't hurt ourselves."** — Boy, eight.

The children we spoke to during the visit had many constructive suggestions for improvements to the environment at Yarl's Wood:

**"The rooms could be better, like the curtains, why can't we have something like Disney on them?"** — Girl, eight.

**"The windows, they're really easy to get your fingers trapped in them because of the way they are. Also it's bad they don't open wide, sometimes you just want some air."** — Boy, nine.

**"In the rooms, we should be able to have our things and they could make them nicer. What happens to all our things?"** — Boy, nine.

104 —  
Completed in April 2008.

**"They could change it so it looked more like home and get rid of the doors; they're intimidating."** — Boy, nine.

The need for an improved environment is a recurrent theme reflected in the minutes of both the upper and lower school children's forums. A particularly common set of remarks concern the lack of colour in the bedrooms. There were numerous suggestions for improvements, including murals, pictures on the curtains and brighter wallpaper. This is a good example of how children's suggestions for improvements might make the detention environment more palatable.

## **RESTRICTIONS IMPOSED BY DETENTION**

Serco makes a point of referring to detainees as 'residents'. However, school age children are well aware of, and affected by, the restrictions imposed by a detention regime. Many of the children we spoke to expressed the view that Yarl's Wood felt very much like a prison.



(I hate I repeat HATE Yarl's Wood. I never wanted to come here I just wanted to stay in the country in Manchester near my friends.)

**"Just the initial sight of the place, you know you're in a prison with the two big gates. As soon as you see it you know."** — Boy, 12.

**"It's a prison, you can't call it anything else, and it's a prison."** — Girl, 11.

**"I would remove the gates."** — Boy, 12.

**"You're not free here. You're not able to go into friends' rooms and things".** — Boy, 12.

**"Roll count isn't nice. It doesn't give you any privacy. It shouldn't be like prison."** — Boy, 14.



"Imagine you are having a shower in the night and they come in and shout roll count and then leave. It's a bit rude. It's OK to check if people are being a bit silly and should be in the right place but they should have manners. They'll get manners back [from us] then." — Girl, eight.



(You could show us a bit of manners and we'll show you manners back).

Uniforms are worn by staff on Crane Unit. A member of staff commented to us that they thought they could probably dress more informally on the unit as the uniforms; "can intimidate the children" and "remind them of the people who took them from their homes".

Children also told us that they didn't like the uniforms:

"It is better you're not in suits. With people in uniforms, you feel you've got to be more careful because if you do something wrong they'll shout at you."

## **SCHOOL**

Education is provided on weekdays in two separate classes. The lower school is for children aged between five and 11 and the upper school for children aged 11 to 16. Attendance at school is voluntary and some school aged children do not attend.

There are wide variations in the length of time each child spends in the centre and therefore most of the children do not know each other. They not only feel uncomfortable being placed in a detention centre, but also feel uncomfortable being in a school within a detention centre where they do not know staff or the other pupils.

Many of the children we worked with during the day did not know each other's names or even minimal information about each other, even though they were spending time in the classroom together. This creates an uncomfortable and unnatural situation for children in which to learn. While we are aware that the fluid nature of the detention population makes it difficult for children to form relationships, this only underscores the particular difficulties children face in this unnatural environment, where they are living at close quarters with other families to whom they have no connection.

Many of the children we spoke to told us that they would like more opportunities to play games. Not only is play hugely important for a child's development, it would also help with the socialisation process amongst children in the centre, and could in turn help children feel more comfortable in attending school if they wished. Children told us that the best thing about 11 MILLION's visit was "drawing how I felt", "sharing your feelings", "the games we played" and "sharing your feelings with other people". These comments show that children have both a need to communicate the experience of what has happened to them and a need to have someone listen to them. It is likely that being able to talk and being listened to assists in coming to terms with events that many children find traumatic.



(I am walking to class but I am not bothered coming to it. Yar's Wood is a boring place except the games and it's still not good because an hour is stupid but a full day would be good).

The games we played during our visit were designed to enable the children to feel safer in our company and to get to know each other a little better. If games were incorporated into their time at Yar's Wood, it would enable them to feel more comfortable spending time together and help them to share their experiences. This in turn might help them feel less isolated.

## **FOOD**

Many of the children expressed a dislike of the food provided at Yar's Wood or thought the menus were monotonous:

"Breakfast and lunch is always the same." — Boy, nine.

"I wouldn't have the same thing every day, it's always rice and chips everyday for lunch and dinner." — Boy, nine.

"Every single day you get chips. At school you always get fruit but sometimes it would be nice to get something different. Not all the time, just sometimes." — Girl, eight.

The food provided at Yarl's Wood was an issue brought up regularly during the children's forums. For example, rice was often complained about as being undercooked, dry, tasteless and responsible for causing children to get "tummy ache", without any action apparently being taken. This was even commented on in the most recent prison inspectorate report on Yarl's Wood,<sup>105</sup> where it found that, "rice was put on the hotplates about 40 minutes before serving and had deteriorated. The serveries were set up before noon to serve a range of centre staff before detainees were served".

## **FACILITIES**

There are identifiable trends in the issues raised through the children's forums. This raises questions about how those issues are taken forward. This is particularly true regarding the facilities for children at the centre. Discussion about the facilities forms a substantial part of the agenda of forum meetings.

Provision of internet facilities was something requested by children in 17 of the first upper school forums before it was eventually provided. While this type of request takes time and resources to arrange, the 18 months taken seems excessive.

A simple request to pump-up the balls used in activities, not a major resource issue, was raised in eight forums over more than a year, suggesting that little was done to remedy the situation.

The 'beauty salon' is a valued facility at Yarl's Wood and was mentioned during a number of the forums. However, it was not available to younger children at the time of our visit.<sup>106</sup> One girl told us:

**"There's a girls' beauty room every Friday from 6pm—8pm for nine to 18 year-olds. Why can't I go when I'm eight? Even if your birthday is in one week they still won't let you go. It's not fair."** — Girl, eight.

**"The salon needs to be open more often, it's not fair the little ones can't go to the girls' beauty room. The girls' beauty room is free and you can go other times but you have to pay. If it was open more often you would have more chance to go because only five people are allowed in."** — Girl, 13.

105 —  
HM Chief Inspector of Prisons  
(2008), op. cit.

106 —  
We understand that the Youth  
Club (including the beauty  
salon) is now open to those  
aged seven and over.

## **IMPROVEMENTS SINCE OUR VISIT**

**Food:** We are pleased that Serco now runs regular food consultations and amends menus accordingly. We understand that they are working towards the Schools Healthy Eating Award. We anticipate a relevant fall in complaints about the standard of food through the children's forum minutes, and hope that this consultation process gives regard to the diverse cultural backgrounds of the detention population. Moreover, parents should be given opportunities to cook for their own families and we hope that this will be incorporated into the operation of the centre.

**Uniforms:** We understand that the wearing of uniforms by officers on the family unit at Yarl's Wood is currently under review and we look forward to hearing the outcome of this process.

## **RECOMMENDATIONS**

- 6.1** During arrest, officers should ensure that children are encouraged to bring friends' contact details with them. Detention arrangements should facilitate contact with friends.
- 6.2** Families should be routinely asked whether they have pets and informed about what arrangements have been made for pets which have been left behind.
- 6.3** The provision of emotional support and/or counselling needs to be improved, with priority given to older children who tend to carry the greater stress on behalf of their families.
- 6.4** Effective procedures need to be put in place in order to progress issues raised through children's forums, for example improving facilities and the food provided.
- 6.5** Roll count should be conducted in a way that respects family privacy. The number and timing of roll counts should be reviewed with a view to reducing their frequency and intrusiveness.
- 6.6** 11 MILLION welcomes that the provision of play equipment and social opportunities to play have significantly improved. However, the social and emotional importance of children's play should be promoted with regular opportunities provided for them to play collectively.



## **THE HEALTHCARE OF CHILDREN AT YARL'S WOOD**

7

The children who are detained each year at Yarl's Wood are entitled to the same standard of healthcare that is provided to all children, regardless of their immigration status. We believe that detention is harmful to children's health and well-being, and children who are ill should never be detained.

We found that the healthcare outcomes experienced by children at Yarl's Wood were below that provided by the National Health Service (NHS), and did not adequately cater for the needs of detained children. Health needs of children are often not identified, and systems are not in place to monitor children's health. When health needs are identified, the appropriate action is often not taken. Crucially, children's ill health rarely appears to inform the decision to maintain detention, as children who are seriously ill, and/or whose health is deteriorating as a result of detention, remain detained.

This chapter examines the healthcare provided for children and young people in detention at Yarl's Wood in the context of the United Nations Convention on the Rights of the Child (UNCRC), and addresses the physical and emotional well-being of children. It is also relevant to the Every Child Matters Be Healthy outcome.

The particular areas of concern highlighted are: the recording and availability of patient information; provision of follow-up care; provision of immunisations; inadequacy of clinical care; care provided to children and adults with mental health needs, and consideration of healthcare needs before removal.

### **HEALTH POLICIES AND PROCEDURES AT YARL'S WOOD**

#### **Primary healthcare**

The health centre at Yarl's Wood is responsible for providing healthcare to detained children and is staffed by nurses and General Practitioners (GPs). No member of the health team has specific child health qualifications. The nurses are mainly employed by Serco Health,<sup>107</sup> whilst GPs work on a locum basis according to the rota. The Head of Healthcare attends the weekly conference call where decisions to detain children are reviewed in light of welfare considerations (see chapter eight).

On arrival, children are seen by a nurse in reception who carries out a preliminary assessment. The family is offered an appointment to see the GP the next day for a medical examination. Health concerns are referred to the GP who has a number of options: to deal with them in-house at Yarl's Wood; refer them to external services such as those provided at Bedford Hospital or Bedfordshire Child and Adolescent Mental Health Services (CAMHS), or complete a Detention Centre Rule 35 form. Where there is any other concern about a child, this is recorded and a Child Concern Notification Form is completed and passed to a local authority social worker based at Yarl's Wood. Completion of this form will trigger standard child protection procedures and be dealt with by the Assistant Director for Children and Families at Yarl's Wood.

The Enforcement Instructions and Guidance says that, upon arrest, families should be encouraged to pack health records. The Healthcare Manager said that records are sought from paediatricians where a child has been receiving specialist care.

#### **Secondary and tertiary healthcare**

The UK Border Agency's (UKBA) Enforcement Instructions and Guidance state that those suffering from serious medical conditions or the mentally ill should only be detained in exceptional circumstances.<sup>108</sup> Detention Centre Rule 35 requires that the medical practitioner must report to the centre manager in the case of any detained person

107 — Serco Health is a separate company contracted by Serco (the parent company) to provide medical services under contract.

108 — Enforcement Instructions and Guidance; chapter 55.10. See [www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55](http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55)

109 — Rule 35: Reports of Special Illnesses and Conditions (including claims of torture) received from Immigration Removal Centres, Regarding Detainees. See: [www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/detention/guidance/rule35reports.pdf?view=Binary](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/detention/guidance/rule35reports.pdf?view=Binary)

110 — Soon to be replaced by the Care Quality Commission.

111 — The Immigration Directorate Instructions are internal guidance for UKBA staff. See chapter 1, section 8 – Medical. See: [www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter1/](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter1/)

112 — Immigration Directorate Instructions; chapter 1, section 8, para 5.6.

whose health is likely to be injuriously affected by continued detention or any conditions of detention.<sup>109</sup> The Immigration Directorate Instructions (IDIs) also set out relevant standards (see section on standards below for more details).

When detainees require secondary or tertiary healthcare, they are referred to Bedford Hospital. Bedfordshire Primary Care Trust (PCT) is not funded for any healthcare services arising from having Yarl's Wood in its area including acute, tertiary or mental health services.

A memorandum of understanding appeared to exist between Yarl's Wood and Bedford Hospital at the time of the Children's Commissioner's visit to Bedford Hospital. But we are concerned by the extent to which it addresses security issues, rather than the health needs and best interests of the child.

Yarl's Wood employs counsellors to work on-site who have basic training in counselling children and can provide some form of support in an emergency. There is also a multi-sensory room for children in psychological crisis. Children are referred to Bedfordshire and Luton Mental Health and Social Care Partnership NHS Trust should they require further mental health treatment.

There is a welfare review process to which the on-site, local authority social worker contributes. This presents an opportunity to discuss concerns and identify action (see chapter eight on reviewing detention for more information).

#### **Regulation of healthcare**

The Healthcare Commission has a statutory duty to regulate the independent healthcare sector through registration, annual inspection, monitoring complaints and enforcement.<sup>110</sup> It is required to pay particular attention to the need to safeguard and promote the rights and welfare of children, and the effectiveness of measures taken to do so.

Although healthcare services have been operating at Yarl's Wood since its opening in 2001, these services were not registered with the Healthcare Commission until August 2008 following the transference of the contract to Serco Health in July 2007.

#### **Standards**

There are no specific standards of healthcare for children at Yarl's Wood. Therefore, UKBA does not have an assessment framework against which to judge the quality of the service they commission from Serco Health. Standards are drawn from the Home Office rules, and other working standards were described to us by staff.

Relevant standards described in the Immigration Directorate Instructions<sup>111</sup> state:

"Requests to delay removal for a short period to allow for preventive treatment should be considered on their merits in the light of medical advice... This is particularly important when pregnant women, young children or unaccompanied minors are involved."

"Where removal centre medical staff consider that preventive treatment should be given, removal directions may be set but should be dependent on any pre-departure element of such treatment being completed."<sup>112</sup>

Medical staff and healthcare managers gave reassurances that they routinely:

- Communicate with children’s GPs and paediatricians
- See children’s Red Books — the child’s health record which contains important information about a child’s health and development <sup>113</sup>
- Administer vaccines and prescribe anti-malarial chemoprophylaxis
- Complete a Rule 35 form for any child who is not fit for detention.

## **FINDINGS**

We spoke to health professionals at Yarl’s Wood and Bedford Hospital, analysed the healthcare records of children in Yarl’s Wood, listened to accounts of detained families and researched information from secondary sources.

### **Patient information**

Evidence shows that GPs at Yarl’s Wood frequently see patients without their medical records and often have little time to assess their healthcare needs.

Medical staff talked of their concerns arising from lack of knowledge of patients’ medical history on arrival. The failure to provide and/or obtain essential health information compromises the nature and level of services provided to patients.

Our findings suggest that basic steps are not taken to determine medical history, such as contacting specialists. This failure to share information adversely affects the healthcare received by patients at Yarl’s Wood, particularly in referrals to Bedford Hospital or other secondary or tertiary providers.

Parents at Yarl’s Wood may be less able than usual to identify and address their children’s medical problems while they manage their asylum cases pending removal, and may have existing or emerging mental health problems in light of their history and situation. In this environment, it is crucial that children’s medical needs are closely supervised, while still respecting the role of the parent(s).

Children’s health information was recorded on assessment proformas. These did not contain the name of either parent. The ‘family lead’ was recorded as a seven-digit number.

The Healthcare Manager stated that health centre staff routinely sought medical records from the child’s GP. However, records showed that this was attempted for only two children in the sample of 42, and neither request was answered. In one of these cases, information was only faxed to the GP after a failed removal attempt.

The only GP communication in the sample was a faxed note to UKBA confirming a child was fit to fly. Though the child had insulin-dependent diabetes, there was no consideration of whether the child was fit to detain. In addition, there was no documented consent from the family for the GP to share information with UKBA. As a measure of good practice, UKBA should seek patient/parent consent when seeking information on their behalf.

Guidance states that families are encouraged to pack health records at the point of arrest. A practice nurse estimated that child health records (the Red Book) accompanied about 50% of the children. However, in only one case of 42 was it documented that the Red Book had been seen.

Despite assurances that records are obtained from a paediatrician in cases where a child is known to receive specialist care, communication with the paediatrician had not been initiated for any of the 42 children in the sample, although several had severe or chronic illnesses. The children whose notes were seen had a number of medical conditions,

113 —  
The Red Book is the parent held child health record which contains information important to a child’s health and development. These are frequently left behind (as indeed are medicines) when children are detained.

114 —  
At Bedford Hospital, the Children’s Commissioner met with: the Commissioner for Bedfordshire PCT who holds responsibility for commissioning children’s services; the Chief Executive of Bedfordshire PCT; a number of Consultant Paediatricians; the Paediatric Matron, and the Children’s Safeguarding Nurse.

115 —  
For January to September 2007 it was stated that there have been four child in-patients and seven child out-patients from Yarl’s Wood at Bedford Hospital. There was some inconsistency in these figures, but not by an order of magnitude. Accident and Emergency admission figures from Yarl’s Wood were unavailable.

including:

- Sickle cell disease (2)
- Insulin-dependent diabetes (1)
- A baby whose mother had HIV infection (1)
- Asthma (2)
- Eczema (3)

Filed letters from a paediatrician in relation to the two children with sickle cell disease were sent on his own initiative after learning of the children’s detention.

The weight of 35 children was documented, but not recorded for the remaining seven. Documentation was inaccurately recorded to the nearest kilogram in 32 of the 35 children weighed, suggesting that health centre staff fail to use the more accurate paediatric scales. Only three children had their weight recorded accurately and, in all cases, this was documented on just one occasion, despite the length of detention necessitating further weight checks.

The inaccurate recording of weight is concerning in the light of health staff stating that weight loss could be an indication that a child was not fit for detention. Moreover, 10 of the 20 families spoken to reported that their children had not been eating properly; while three raised concerns that their child or children lost weight in detention.

Staff at Yarl’s Wood shared their concern about the lack of a clinical information system. Computerised information systems are now standard throughout the health sector, they facilitate an understanding of the health needs of the population and help assess whether needs are met. The absence of this facility adversely affects the treatments staff are able to offer, as well as their ability to access records and conduct clinical audits.

### **Hospital care at Yarl’s Wood and Bedford Hospital**

The delivery of follow-up care at Yarl’s Wood is complicated by unpredictable periods in detention and the difficulties experienced in referring patients on to hospitals.

In March 2008, the Children’s Commissioner visited Bedford Hospital. <sup>114</sup> 11 MILLION was surprised by how few children from Yarl’s Wood had been in or out-patients at Bedford Hospital. <sup>115</sup> This is a matter of concern, due to the size of Yarl’s Wood’s population and the specific health and well-being problems its residents face. Findings suggest that children are not referred to secondary care when necessary.

At Bedford Hospital, the Consultant Paediatricians and the Paediatric Matron discussed the small number of cases they had recently observed. Whilst these cases were small in number, they magnify concerns regarding the decision to detain some children, particularly in light of the medical care received at Yarl’s Wood.

Commonly voiced feedback highlighted the lack of clarity over funding, leading to a delay in treatment until the situation had been resolved. Instead of responding to the medical needs of patients, medical staff lose valuable time identifying the relevant managers to authorise treatment. It appears this issue may have contributed to delays in treating a baby with pneumonia and a teenager with serious mental health problems. These delays can only serve to compromise the health needs of a child and can deflect medical staff from their key responsibilities. The following examples illustrate these points:

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### **CASE STUDIES**

The records show that four children were seen in secondary care whilst detained: an infant whose mother was HIV positive; a 10 year-old girl with insulin-dependent diabetes; a child with tonsillitis who was prescribed an antibiotic, and a child with a pulled elbow, which was treated. The Children’s Commissioner was told of the admission to Bedford Hospital of a child who was found to have a central venous long-line in place. This is a tube from the heart coming out of the chest wall for the intravenous treatment of chronic conditions. It had not been noted at Yarl’s Wood and the nature of this condition should have precluded detention.

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A diabetic child required emergency treatment three times during her 24 day detention.<sup>116</sup> On two occasions she was documented as being 'un-rousable' with high blood sugar, and was transferred by ambulance to Bedford Hospital. On another occasion she required emergency treatment for low blood sugar. The notes record an occasion when morning insulin was not given because of an incident on the family unit. Awareness of this child's condition should have precluded them from detention.

A brother and sister with sickle cell disease had their penicillin treatment interrupted at the time of detention.<sup>117</sup> They became unwell with high fevers and were refusing to drink. The health centre prescribed paracetamol and advised the parents to encourage oral fluid intake. Had they been referred to Bedford Hospital, these children would have been treated with intravenous fluids and intravenous antibiotics.<sup>118</sup> This appears to amount to a failure to provide safe care which, in NHS services, would be viewed under the terms of Clinical Risk Management as a trigger event or 'near miss'. This would require investigation as a potentially life threatening 'Serious Untoward Incident'.

The Primary Care Trust's (PCTs) Commissioner emphasised the need for resources and funding to support the PCT to commission secondary and tertiary healthcare services in such a way that does not impact on the PCT's other responsibilities to its general population. The issue of secondary and tertiary funding must be clarified and clear protocols communicated to staff.

Serco Health managers informed us that the long-term intention was to skill up staff to reduce referrals to Bedfordshire PCT and Bedford Hospital. However, there is currently an acknowledged lack of paediatric skills or child and adolescent mental health services (CAMHS) within the Yarl's Wood team. Furthermore, attempts to recruit two registered sick children's nurses had been unsuccessful at the time of our visit and for some time afterwards.

Bedford Hospital staff and the Children's Commissioner have observed uniformed officers appointed to supervise children during their stay in hospital.<sup>119</sup> During 11 MILLION's visit to Yarl's Wood in May, the Assistant Director of Children and Families informed us that bed watch by officers is authorised only after a risk assessment, but officers will always be with a child unless UKBA says otherwise. While the officers who guard children during their stay in hospital are employed by an external contractor, the decision to deploy is made by centre management (i.e. Serco) and is ultimately the responsibility of UKBA.<sup>120</sup> UKBA must recognise this responsibility in monitoring the use of bed watch.

Using his power of entry and triggered by the report of the circumstance of one teenager who had threatened to commit suicide, the Children's Commissioner saw, on 21 November 2007, four officers around the bedside of the 13 year-old girl. On enquiring why this was the case he was told that 'the rules say that whenever a failed asylum seeker is outside Yarl's Wood then he/she must be in continuous 24 hour visual contact with two officers'. Since the child and her mother were on the open ward, then four officers were present. The child and her mother complained bitterly over the intrusion into their privacy.

When the Assistant Director of Children and Families was asked whether the standard arrangement should be to temporarily release detainees when they needed in-patient treatment in hospital, she said that this would not work as the patient would then abscond.

The presence of officers is highly inappropriate in a hospital environment. It may cause profound distress to the child as well as other patients and their parents. Moreover, medical staff expressed their anger over the presence of officers in what they saw to be a place of healing, the presence of the officers also preventing them working effectively with the patient. Officers should not routinely be assigned to children, unless there is compelling evidence to the contrary.

116 —  
The child was subsequently granted temporary admission.

117 —  
Children with sickle cell disease do not have normal immunity and are vulnerable to life threatening infections.

118 —  
Sickle Cell Disease in Childhood Standards and Guidelines for Clinical Care Detailed Guidance. See: [www.sickleandthal.org.uk/Documents/DETAILED\\_CLIN\\_Oct19.pdf](http://www.sickleandthal.org.uk/Documents/DETAILED_CLIN_Oct19.pdf)

119 —  
This was observed by the Children's Commissioner during his visit to Bedford Hospital on 22.11.2007.

120 —  
Memorandum of Understanding for Children Needing Services at Bedford Hospital NHS Trust and Yarl's Wood Immigration Removal Centre (May 2007).

121 —  
Department of Health; Clinical Guidance. See: [www.dh.gov.uk/en/PublicHealth/Patientsafety/ClinicalGovernance/index.htm](http://www.dh.gov.uk/en/PublicHealth/Patientsafety/ClinicalGovernance/index.htm)

122 —  
UKBA; Immigration Directorate Instructions; chapter 1, section 8, see: 5.7-5.10 - Malaria Prophylaxis.

123 —  
Health Protection Agency, National Guidelines for Malaria Prevention in Travellers from the UK. See: [www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb\\_C/1203496943315?p=1153846674367](http://www.hpa.org.uk/webw/HPAweb&HPAwebStandard/HPAweb_C/1203496943315?p=1153846674367)

124 —  
The methodology used for assessments in prisons is directly applicable. See: Department of Health; Toolkit for health care needs assessment in prisons; available at: [www.dh.gov.uk/en/Publicationsandstatistics/PublicationsPublicationsPolicyAndGuidance/DH\\_4008653](http://www.dh.gov.uk/en/Publicationsandstatistics/PublicationsPublicationsPolicyAndGuidance/DH_4008653)

125 —  
For further information, see chapter eight on reviewing detention.

## Clinical governance

Healthcare at Yarl's Wood is not delivered within an adequate framework of clinical governance to ensure the standard of clinical care meets children's health and well-being needs.

The Department of Health's Clinical Guidance says:

"NHS organisations are accountable for continuously improving the quality of their services and safeguarding high standards of care, by creating an environment in which clinical excellence will flourish."<sup>121</sup>

The visit to Yarl's Wood suggested that the clinical governance arrangements at the health centre could, at best, be described as under-developed. There was no evidence of audit, use of clinical guidelines for children or clinical incident reporting. The only published guideline for child health in use at the centre was for the prevention of malaria as described by the Immigration Directorate Instructions.<sup>122</sup> However, this guidance is unacceptably poor to the point that it contradicts standard advice for children.<sup>123</sup> The impact of these poor standards, with particular reference to malaria, is described under 'preparation for removal'.

The commissioning of child health services at Yarl's Wood should be based on the Health Care Needs Assessment. This assessment identifies the health needs of a population, and the costs and effectiveness of interventions to address those needs. There is a standard methodology for prisons which is appropriate for immigration removal centres.<sup>124</sup>

Bedfordshire PCT completed a Health Care Needs Assessment for Yarl's Wood in December 2007. It describes current healthcare provision, but does not assess the particular health needs of detained children. As a result, it fails to provide a complete picture of the provision necessary for the detention population, particularly as it does not examine how detention affects children's mental health, or the impact of removal to countries in light of known health risks.

A comprehensive needs assessment must be undertaken for Yarl's Wood to inform the planning, funding and monitoring of children's health services. This should be undertaken regularly, to meet the fluid profile of children at Yarl's Wood, and take into account the prevalent health issues in countries to which they are likely to be sent to.

Our visit also uncovered serious shortcomings with the issue of Rule 35 letters (see appendix one), a matter that would be exposed through appropriate clinical governance.<sup>125</sup> No Rule 35 letter was completed for any child in the sample, although one was indicated as appropriate in the cases of at least four children. In addition, we noted a reliance on locum staff for filling health centre positions which contributes to deficiencies in this area, particularly with regards the lack of clinical leadership.

Health managers told us that Serco Health is aware of these shortcomings and is working to introduce robust clinical governance arrangements in all their secure establishments. In addition, the PCT has been involved in establishing a Partnership Board to support the development of services at Yarl's Wood. The implementation of clinical governance at Yarl's Wood remains the sole responsibility of Serco. The current situation is one where Serco Health has been operating healthcare services without clinical governance of a reasonable standard for around 18 months.

## Immunisations

Detention interrupts the routine immunisation of children and, in some circumstances, results in crucial immunisations being missed before removal to high-risk countries, particularly with regards to meningitis and measles.

Our audit of patient records exposes the extent to which detention is impacting on routine child immunisations, putting children at risk of serious illness.



In all, immunisation status was recorded for 36 of 42 children, three of whom were identified as requiring immunisation:

- Immunisation was not given to two of the three children who were documented as needing it, and the third child was given the wrong vaccine.<sup>126</sup>
- The MMR vaccine against measles, mumps and rubella is routinely given at 13 months. For children going to endemic or epidemic areas for measles it is recommended that a dose of MMR should be given to infants from the age of six months.<sup>127</sup> However, no infant was immunised against measles.
- Meningococcal quadrivalent (ACW135Y) polysaccharide vaccine should be given to everyone going to live in sub-Saharan Africa to protect against epidemics of meningitis.<sup>128</sup> However, the vaccine was given to none of the 14 children that required it.
- Bacille Calmette-Guérin (BCG) is a vaccine against tuberculosis. BCG status was recorded as: given for 27 children; not given for two children; unrecorded for nine children; and documented as 'not applicable' for three children.
- No child was administered with BCG despite the very high risk of tuberculosis on removal. The use of the term 'not applicable' raises questions regarding health workers' understanding of the life-saving potential of this immunisation.

## Mental health

Our analysis showed that there was no appropriate assessment of children's mental health. The initial assessment proforma has, under 'emotional state', merely a line to record whether a child looked happy or sad. In the case of a mother who was known to have a severe depressive illness with auditory hallucinations, and was a victim of torture, her two year-old son was merely assessed as a "happy boy". At Yarl's Wood, she was prescribed anti-depressants and put on suicide watch in the light of three suicide attempts. Yet no mental health support was provided, nor was an assessment of her parenting abilities conducted.<sup>129</sup> We are concerned at the lack of structured monitoring and support of children's mental health and that of their families.

Yarl's Wood employs on-site counsellors who have basic training in counselling children. They provide support in an emergency. However, as referred to previously, there is currently an acknowledged lack of child and adolescent mental health services within the Yarl's Wood team. There is a multi-sensory room for children in psychological crisis. However, should a referral to Bedfordshire CAMHS<sup>130</sup> become necessary, children are subject to waiting lists to access further treatment. Current provision is geared towards the wider needs of the community and not towards the specific needs of children detained at Yarl's Wood as additional resourcing is not provided to allow for this. There are no targeted arrangements for detained children to access these services locally, a situation which is inadequate and needs to be rectified through appropriate protocols that acknowledge the specific needs of the Yarl's Wood community.

## Preparation for removal

Children are frequently given inadequate preparation for removal, particularly with regards to the supply of prophylactic medicine<sup>131</sup> and equipment. This contravenes the UK's stated goals contained within its Global Health Strategy.<sup>132</sup>

Children who are deported are at an exceptionally high risk of contracting malaria, having no natural immunity. Adults facing deportation are also a high-risk group, as acquired resistance to malaria is lost after a couple of years.

As outlined above, the clinical governance structures in use at Yarl's Wood were, at the time of our visit, insufficiently developed. In particular, the UKBA medical guidelines on malaria contain a number of serious errors, with no clear evidence base and no mechanisms for review of the guidance.

126 — The routine immunisation schedule at age 12 months is for a booster of Hib/MenC to protect against two forms of meningitis. The child was given MenC alone. When this was given, the child was due to be given the 13 month MMR vaccine, but MMR was not given. Department of Health (2006); Immunisation against infectious diseases: chapter 11. See: [www.dh.gov.uk/en/PublicHealth/HealthProtection/Immunisation/Greenbook/dh\\_4097254](http://www.dh.gov.uk/en/PublicHealth/HealthProtection/Immunisation/Greenbook/dh_4097254)

127 — Ibid.

128 — Department of Health (2006); Immunisation against infectious diseases: chapter 22. See: [www.dh.gov.uk/en/PublicHealth/HealthProtection/Immunisation/Greenbook/dh\\_4097254](http://www.dh.gov.uk/en/PublicHealth/HealthProtection/Immunisation/Greenbook/dh_4097254)

129 — For example, the Common Assessment Framework (CAF) could be used in this situation to record concerns.

130 — Bedfordshire CAMHS are part of Bedford and Luton NHS Partnership Trust.

131 — Medicines that reduce the risk of contracting infectious diseases, e.g. malaria, if going to a country that is infected with the disease.

132 — Department of Health; Global Health Strategy; 8.12.2008.

133 — Malaria and HIV/AIDS Interactions and Implications: [www.who.int/malaria/malariaandhiv/aids.html](http://www.who.int/malaria/malariaandhiv/aids.html)

134 — UKBA; Immigration Directorate Instructions; chapter 1, section 8.

135 — UKBA; Immigration Directorate Instructions; para. 5.2.

136 — UNICEF: [www.unicef.org/health/index\\_malaria.html](http://www.unicef.org/health/index_malaria.html)

137 — Department for International Development; 'UK Government announces £50 million to fight malaria' - press release; 16.07.08.

These include:

- Listing Kenya as a low risk country not requiring prophylaxis.
- No explanation or evidence base as to why a four year-old child merits protection, but a five year-old child does not.
- HIV positive people were not included as a vulnerable group despite evidence regarding the severe effects of dual infection.<sup>133</sup>

The current clinical governance structure does not ensure robust checks of the provision of the, albeit limited, malaria preventions as outlined by the UKBA's guidance. For example, it states that prophylaxis with medicines to prevent malaria should be given to pregnant women and children under five for the first 28 to 42 days after removal, and that this offer should be documented. This is to ensure removals are not halted when this step is not taken. However, while a check-list recording a parent's refusal of malaria prophylaxis will discharge the health worker's duty to UKBA, it does not demonstrate how parents have been given suitable or sufficient information.

The audit of the notes of 14 children due to be removed to Africa showed that none had received the care outlined by the Immigration Directorate Instruction.<sup>134</sup> Prophylaxis was accepted for only two children and neither prescription was correct, with one being for just three days. In three cases there was no documentation of the discussion. Given the very low uptake of prophylaxis, we have serious concerns about the quality of practice in this area.

Furthermore, as recognised by the Immigration Directorate's Instructions, "bed nets and other barrier protective measures are equally important in an endemic setting".<sup>135</sup> The health need for insecticide treated nets is compelling as they can save the lives of six children per year for every one thousand children sleeping under them in that year.<sup>136</sup> However, the guidance also states that bed nets are the responsibility of the detainee to obtain, even though many returned will be destitute.

This lack of provision is in stark contrast to the Government's announcement of £50 million funding to fight malaria, which highlighted that a child dies every 30 seconds from this easily preventable disease.<sup>137</sup>

## **IMPROVEMENTS SINCE OUR VISIT**

**Weighing and measuring:** Serco Health has confirmed that, at the time of our visit in May 2008, their weighing and measuring practices were not in keeping with current NICE guidance. However, we have been told that this issue has been addressed, and there is now a weekly weight clinic for children that uses EU approved SECA scales which are available in three locations in the healthcare centre. We request a copy of this updated policy, and look particularly for evidence of what action is taken when a child is documented as failing to thrive.

**Clinical governance:** We welcome Serco's appointment of a head of clinical governance and we look forward to continuing to liaise with them in relation to good practice in clinical governance.

**Staffing:** In light of the particular health needs of the children detained at Yarl's Wood, we welcome the appointment of a Paediatric Nurse at the Yarl's Wood health centre in February 2009. We understand the Paediatric Nurse will also provide training and policy input. We look forward to hearing how this appointment will deliver improved care to this vulnerable group of children. We are aware that all contract nursing staff employed at the health centre undertook a three day intensive Paediatric Assessment Course as of February 2009. Serco Health has notified 11 MILLION that they are now fully staffed, and where temporary staff are used they ensure they are sourced from an appropriate clinical background. We note the appointment of a Paediatric Nurse as head of Clinical Governance. We hope that, in time, this function will be filled by a doctor, in line with the approach in most general practices and in other parts of the detention estate. Furthermore, there are significant health needs at Yarl's Wood which are not primary care, for example infants of women living with HIV.

**Healthcare Commission registration:** We are pleased to report that since Serco Health took over the contract to run the health centre in July 2007, they have completed the necessary programme of work to ensure full compliance with Healthcare Commission standards. Registration with the Healthcare Commission was achieved in August 2008, and is a reflection that Serco Health meets its legal requirements as laid out by that body. However, prior to Serco's tenure as contractor, the health centre was not registered as required by law.

**Mental health:** 11 MILLION is pleased to note the discussions currently underway between Serco Health and Bedfordshire PCT on enlarged/full service provision with CAHMS. We would strongly support the implementation of a policy that all children detained at Yarl's Wood receive a mental health needs screening assessment, and we await with interest the outcome of discussions that are currently assessing this proposal's potential. This should be implemented alongside defined referral criteria. This is in recognition of the fact that the deterioration of parental mental health whilst in detention is well documented.

Serco Health has informed 11 MILLION that they have appropriately trained Mental Health Nurses who carry out Mental Health Assessments and work in conjunction with the GPs, Psychiatrist, Paediatric Nurse and Councillors. We would welcome further detail on this assessment procedure and the implementation of any consequent treatment plans.

**HIV:** We are pleased to note that, with regards to current Malaria guidance and practice, people who are HIV positive are now considered to be a vulnerable group, recognising their vulnerability to dual infection.

**Prophylaxis general:** Serco Health has informed us that they now have prophylaxis available up until the point of departure of every child, pregnant woman, or HIV positive detainee who is being removed to a malarial region. They state that all discussions regarding prophylaxis are fully documented, regardless of whether or not they are accepted. We look forward to receiving documented evidence, including the policy outlining the new measures, to show that these new practices have substantially improved the uptake of prophylaxis, and further to assess the rigorousness of documentation following these discussions.

## **RECOMMENDATIONS**

- 7.1 UKBA should recognise the right every child has to the enjoyment of the highest attainable standard of health, and ensure that no child is denied equal access on the basis of their detention status.
- 7.2 Some medical conditions may render detention inappropriate due to serious risk to a child's health. UKBA should commission a review from a suitably qualified body to determine which conditions might fall into this category.
- 7.3 All children who enter immigration detention should have the continuity of their healthcare prioritised, with medical staff obtaining their health records without delay.
- 7.4 A baseline assessment of children's health should be conducted upon entry, with consideration to both physical and mental health needs. Serious consideration should be given to using the Common Assessment Framework for this purpose.
- 7.5 Lines of responsibility for health care provision both within and outside of Yarl's Wood should be clear and prioritise the child's needs, ensuring alternatives are quickly arranged when their needs cannot be met within Yarl's Wood.
- 7.6 Children in detention requiring hospital attention should be granted temporary admission for the duration of their visit or stay in hospital along with their parent. Officers should not be present during hospital appointments or on the children's wards.
- 7.7 A full assessment of a child's health needs prior to removal must be completed, followed-up with the provision of advice, immunisation and prophylactics.
- 7.8 Children and families subject to removal to endemic malaria areas should be provided with insecticide treated bed nets.
- 7.9 UKBA health policy for children should be determined with reference to the Department of Health's National Service Framework for children, young people and maternity services (2004) and the UK Government's global health strategy Health is Global.
- 7.10 In recognition of the specific mental health needs of the Yarl's Wood population, protocols between Serco Health and the PCT should be established to ensure the delivery and monitoring of mental health support at Yarl's Wood, and to further inform service planning by Bedfordshire CAMHS.



## REVIEWING DETENTION

8

The average length of time children are detained at Yarl's Wood has increased. The current process of reviewing children's detention lacks clarity and does not give sufficient weight to the impact of detention on children's welfare. The process needs to be reviewed urgently to ensure that children's welfare is paramount. We believe that some form of judicial oversight is required in reviewing the detention of children.

This chapter examines the current system used to review detention and assess child welfare. We also question whether children are detained 'for the shortest appropriate period of time' as required by Article 37 of the United Nations Convention on the Rights of the Child (UNCRC).

### INCREASING LENGTH OF CHILDREN'S DETENTION

According to Her Majesty's Inspector of Prisons (HMIP), the average length of stay for children in Yarl's Wood has increased from eight to 15 days.<sup>138</sup> Serco management at Yarl's Wood reported a similar figure to us during our visit in May 2008.<sup>139</sup> It must be noted that the average length of detention masks extreme lengths of detention experienced by some individual children. The Joint Chief Inspectors' report highlighted that greater numbers of children were being detained beyond 28 days.<sup>140</sup>

In its report on Yarl's Wood, HMIP identified that:

"The plight of detained children remained of great concern... an immigration removal centre can never be a suitable place for children and we were dismayed to find cases of disabled children being detained and some children spending large amounts of time incarcerated... Any period of detention can be detrimental to children and their families, but the impact of lengthy detention is particularly extreme".<sup>141</sup>

The Joint Chief Inspectors also raised continuing concerns about the welfare of children detained, and they found that:

"Parents indicated that children who had been doing well in the community became withdrawn in detention, had difficulty eating and sleeping or showed a pattern of deteriorating behaviour".<sup>142</sup>

This echoed our findings and concerns about the impact of detention on children's welfare. When detention is prolonged, children are exposed to a greater risk of harm.

### Why is the average length of detention increasing?

The United Kingdom Border Agency (UKBA) maintain that prolonged detention "is usually as a consequence of the parents seeking to frustrate the removal process".<sup>143</sup> One example of this, given by officials, is that of parents launching last minute judicial review challenges to removal, which then take time to work through the courts. However, it is the case that parents have always lodged judicial review challenges, as is their right. The Administrative Court has agreed in recent times to expedite such

138 — HM Chief Inspector of Prisons (2008), op. cit.

139 — The Assistant Director for Children and Families told us that the average length of stay for children's was 15-16 days.

140 — Ofsted (2008), op. cit.; p 56.

141 — HMIP, op.cit., p. 5.

142 — Ofsted, op.cit.; p 57.

143 — Independent Asylum Commission (2008); Third Report: Deserving Dignity; p 37.

challenges. Any evidence to support the contention that the average length of children's stay has increased due to increasing use of judicial review should be published.

There is a need for independent research to identify the reasons for the increased periods of detention and for this to be published.

### CASE STUDY

During our visit we spoke to S, a single mother with a 10 month-old baby, H. She had been in detention for 32 days, including a few days in Dungavel Immigration Removal Centre in Scotland, where she had attempted suicide before being brought to Yarl's Wood. As a consequence she was on constant suicide watch.

S was diagnosed as clinically depressed, had seen three psychiatrists since her arrival and had been prescribed medication for her depression at the centre. She told us that after the birth of her daughter she had suffered post-natal depression and had been in counselling prior to the birth. She said that she had lost 8kgs in weight since her arrival at Yarl's Wood. She was not refusing food but simply had no interest in it. She told us that her daughter had been showing signs of distress, getting very upset and having nightmares although the child was OK at the nursery during the day. Since arriving in Yarl's Wood her breast milk had dried up, and she was extremely upset and anxious about this. She told us that the doctor had told her to just put her baby onto solid food.

There was a comprehensive welfare assessment conducted by a social worker on S on day 16 of her detention, which confirms the information S provided to us. The following observation was made, "S has no appetite to eat rather than deliberately refusing food as a protest. Her general appearance is declining, skin complexion dry and her lips cracked. Concern rose that she is not drinking enough to keep herself sufficiently hydrated."

The recommendation at day 16 reads: "S is jeopardising her physical health whilst in detention, as she is not eating and coupled with her existing fragile mental state, her ability to provide for H with 'good enough parenting' will rapidly be impacted upon should the family be detained for a prolonged period". On day 32 of her detention, 16 days after this was written and one ministerial authorisation (described later in this chapter) later, S remained in detention. S had not lodged a judicial review.

### WELFARE ASSESSMENTS

#### How children's welfare is assessed and reviewed

Welfare assessments are requested at 14 days. They are carried out by a social worker (two on-site at time of visit) and submitted at 21 days. These assessments are based on interviews with parents and children as well as consultation with other staff in the unit including education and healthcare staff. Medical and educational records are referred to. The assessments are specific and focus on the welfare of the child. The pro-forma used is a reduced version of the Common Assessment Framework (the standardised approach to assessing children's needs across children's services in England). In addition, there are weekly child welfare meetings, chaired by the Assistant Director for Children and Families and attended by the social worker, education and health staff. At these meetings every child in the centre will have their welfare needs discussed.

#### Role of the social worker

There is no routine formal baseline welfare assessment after entry to the centre and children who leave before 14 days will not have a welfare assessment unless there is a clear, identified risk or need. This is concerning, particularly where there may be cases of special needs as highlighted by HMIP in its inspection report, or where children's welfare could be at risk due to the impact of detention. HMIP and the Joint Chief Inspectors identified that seven days was a more appropriate period within which to carry out an initial welfare assessment.

The weekly welfare meetings are a positive development, which allow for welfare concerns to be fed into a weekly conference call, both in writing in advance of the meeting and verbally during the call itself.

The social work assessments that we saw were comprehensive and detailed, and most made clear recommendations. However, it was concerning that some assessments made no recommendation in circumstances where we regarded action as necessary. The assessments, on the whole, are mindful of the impact of prolonged detention on children’s welfare and identify where it has been assessed that a child’s needs cannot be met within the detention environment.

We do not accept, on the evidence we have seen, that the concerns raised in the welfare assessments are always acted upon by UKBA. For example, in the case study outlined earlier in this chapter and the examples that follow, in some cases issues that should have been identified as matters of serious concern were merely described and did not prompt appropriate action.

### **CASE STUDY**

An eight month-old baby diagnosed with asthma is noted as “not eating or sleeping well and wheezing”. The mother is noted as “expressing concern about (the child’s) asthma and breathing”. Despite the fact the child had been prescribed an inhaler prior to detention, it is merely recorded: “Not given inhaler since in unit. Advised to see GP if concern for breathing continues.” Despite noting that, prior to detention, the mother was “pending an appointment with a physiotherapist due to spinal pain”, is “upset and complaining about back pain” and as a consequence “has sought the help of another detainee for assistance with bathing her child”, there was no liaison or contact with medical professionals who were in a position to re-prescribe an inhaler for the child or to facilitate a physiotherapist appointment for the mother.

### **CASE STUDY**

In the case of Baby H (see case study p.45) the assessment at 16 days merely notes that “H’s immunisation status unclear – S’s Red Book at home”.<sup>144</sup> In the context of a planned, forced return to an African country with a severely depressed mother, a lack of action to find out about the child’s immunisation status places the child at serious risk of future harm. It may be that it is not the social worker’s role to obtain the information about immunisation but it is certainly her role to protect the child from potential and avoidable harm.<sup>145</sup>

### **CASE STUDY**

Mother SK was detained with her three children aged 11, nine and seven. The assessment describes the eldest boy as “sad and unhappy” and twice as “scared” or “worried and fearful at having to return to (country)”. It is noted that he “is not sleeping” and that his “education is interrupted by mother’s request for interpreting”. SK’s complaint that “all three children’s mental health is being affected by being detained” is met with advice to seek medical advice from healthcare. The recommendation reads: “Due to SK’s language barrier, coupled with a history of depression, any prolonged detention could have a negative impact on her ability to effectively parent her three children. ‘S’ being the eldest child may not sustain his present role and responsibility as translator for his mother, should the family be detained for prolonged period, as he is already showing indication of anxiety through difficulty in sleeping.” This family remained in detention for 41 days before being released on bail. The social worker’s concern over prolonged detention appears to have had no effect in securing the family’s release. No mental health services were provided for the eldest child or his siblings during their stay.

### **CASE STUDY**

The 10 year-old child of family M was an insulin-dependent diabetic. The child was first

144 — See chapter five for further information on the Red Book – the parent held health record.

145 — Bedfordshire County Council have notified 11 MILLION that, under the terms of the current Service Level Agreement (SLA), there are only sufficient resources to deliver welfare assessments, although social workers will often liaise with community agencies where appropriate.

admitted to Bedford Hospital by ambulance from reception on arrival at the centre and on two other occasions. The welfare assessment reports a “concern about the level (the mother) wanted to take charge” (of her daughter’s diabetes treatment) and that she was “not compliant with medical staff”. There were also recorded concerns about the mother’s “influence on (child’s) blood sugar levels and her behaviour in administering insulin”. The recommendation reads: “Due to depression of (father) as well as being coupled with concerns about (daughter’s) health, since being brought to detention, pressure now put on (mother) to keep family functioning at a basic level. Parenting is ‘good enough’ at present but with additional anxieties about (father’s) well-being how long she can sustain this is questionable. In light of these factors, prolonged detention could have a significant impact on ability of (mother) to effectively parent her children as father progressively withdrawing, further anxiety for (daughter) could impact on her health, as an insulin dependent diabetic.” This family was released on Temporary Admission after 24 days. We do not know if the welfare report influenced this but, if that is so, it is questionable as to why it took three and a half weeks for a family clearly unsuitable for detention to be released.

### **Limitations**

The social worker role at Yarl’s Wood is narrowly focused on assessments and review, and we question why such skilled staff are not actively delivering direct support to children and their families in the centre. Another limitation of the social worker role is the remit to focus on the ‘here and now of detention.’ Thus, a child’s immunisation status or fear of return are not considered within the social work remit, even though failure to deal with these issues may lead to serious and avoidable harm occurring to the child. Bedfordshire County Council have clarified that the focus of the social workers role is prescribed by the nature and level of resourcing provided by their Service Level Agreement (SLA) with UKBA.

In the case of SK’s children (discussed above), following release on bail they all disclosed a history of long-term violent abuse by their father in their country of origin, hence the reason for their fear of return (as mentioned by the social worker in her assessment of the oldest child). In this case, the child’s recorded fear of returning to Pakistan should have prompted further questioning by the social worker.

We have been told that child protection concerns will always be appropriately followed up with in-country social work services. However, we remain concerned that there is the potential for child protection concerns to be in conflict with UKBA’s imperative to remove a family from the UK.

### **REVIEW OF DETENTION AND MINISTERIAL AUTHORISATION**

Government policy requires the Home Secretary to review the detention of every child held over 28 days. In order to facilitate the review there is a weekly telephone conference call with key individuals: a senior UKBA official; the Local Enforcement Office or the Criminal Casework Directorate Assistant Director or their deputy; senior professional advisors from UKBA; the social worker; the Healthcare Manager and the Assistant Director for Children and Families at Yarl’s Wood. The aim of the conference call is to discuss and review the detention of children beyond 28 days. As part of this process, the proportionality of the length of detention and the welfare of the children are considered.

The Joint Committee on Human Rights has questioned the effectiveness of the ministerial review as a mechanism for serious consideration of the welfare of the child. It states:

“We are particularly concerned that the detention of children can - and sometimes does - continue for lengthy periods with no automatic review of the decision. Where the case is

reviewed (for example by an immigration judge or by the Minister after 28 days), assessments of the welfare of the child who is detained are not taken into account. It is difficult to understand what the purpose of welfare assessments are if they are not taken into account by Immigration Service staff and immigration judges.”<sup>146</sup>

In giving evidence to the Committee, the Minister stated that, “to date I have not refused any request for extended detention”.<sup>147</sup>

## **FINDINGS**

We observed a weekly telephone conference call. ‘Welfare issues’ was the first item discussed. We do not know how typical that week’s call was but in this call there appeared to be an undue emphasis on the likelihood of legal challenge, bad publicity, the ability of Yarl’s Wood staff to cope with the more demanding families and other issues relative to welfare issues. Although the social worker did at times try to prioritise the welfare of the child, her observations were generally lost in the broader discussion. Call participants often concluded that they were “content to maintain detention” without any clear reasoning – in particular by clear weighing of welfare issues against other considerations. The length of children’s detention per se did not appear to be a prominent factor in the process. In particular, we observed that the UKBA enforcement staff’s sole consideration appeared to be removing the family.

There is a lack of clarity and confusion about the decision-making process related to the telephone conference call. Minutes and action points are said to be routinely produced, acted on and followed-up. However, the issue of accountability within this process must be clarified. Recommendations from these calls appear to be transmitted to the Minister through the UKBA Children’s Champion office, however whose recommendations have been accepted remains unclear.

We understand that a summary of the social worker’s welfare assessment is now submitted as part of the ‘bundle’ that goes to the Minister. However, it remains unclear what weight is given to these assessments in making the decision to continue detention or not, and how much information is contained within the summary.

We are struck by the difficult situation in which the social work staff at Yarl’s Wood operate, and how challenging it is for this post to be independent with regards to welfare issues. We acknowledge that the social worker is supervised by the Bedfordshire Children’s Services Department, and is an employee of the local authority, with the accompanying independence that this arrangement accords. However, the post is ultimately guided by the nature of the Service Level Agreement (SLA) between UKBA and Bedfordshire County Council, which sets the parameters and limitations of the social worker’s day to day work, an agreement which ultimately reflects the needs of UKBA. It is critical that the social work role is fully independent, and that the person filling this role is able to perform their duties in a way that prioritises the welfare needs and best interests of the child, ensuring this is sufficiently taken into account when reviewing detention.

## **RULE 35 APPLICATIONS**

### **Reviewing children’s detention on medical grounds**

Rule 35 of the Detention Centre Rules 2001<sup>148</sup> concerns ‘special illnesses and conditions’ (including health injuriously affected by continued detention; suicidal intentions and torture claims). It requires the ‘medical practitioner’ to report to the manager of the detention centre<sup>149</sup> when such illnesses or conditions are encountered. The manager is then expected to send a copy of the report to the “Secretary of State without delay” (see appendix one for Rule 35 in full and the procedures for dealing with Rule 35 reports).

146 —  
JCHR (2007); The Treatment of Asylum Seekers, Tenth Report of Session 2006-07.

147 —  
Ibid, para 257.

148 —  
Statutory Instrument 2001 No. 238.

149 —  
Although detention centres are now called Immigration Removal Centres, the detention centre rules apply to them.

150 —  
Attached as appendix one to Detention Service Order (DSO) 03/2008. The stated purpose of the DSO is to ensure that: “All staff operating in an Immigration Removal Centre are aware of the procedures for recording and dealing with reports of special illnesses and conditions; allegations of torture; and the use of the appropriate forms.”

151 —  
In the case of the insulin-dependent diabetic child (reported on in chapter seven) who had numerous emergency admissions to hospital, no Rule 35 report appears on her medical record.

152 —  
Home Office (2008); Asylum Policy Instruction: Reports of Special Illnesses and Conditions (including claims of torture) Received from Immigration Removal Centres Regarding Detainees.

### **Discussions about Rule 35 with staff at Yarl’s Wood**

During our visit we found a number of children with what we would consider to be “special illnesses and conditions” whose health, in our view, was being “injuriously affected by continued detention or any condition of detention” (Rule 35 (1)). We asked the Assistant Director for Children and Families, the Head of Healthcare and the UKBA Contract Monitor about the operation of Rule 35 in relation to children.

The Assistant Director for Children and Families gave us examples of children who might be medically unfit for detention: “a child who was disabled, a child at the severe end of the autistic spectrum, a child with a serious physical disability, or a child who was failing to thrive”. She told us that Serco would write to UKBA to highlight possible problems. She was not aware of a new Rule 35 pro forma<sup>150</sup> used for making the report to UKBA. She told us that any child who was seriously ill would be sent straight to hospital, by ambulance if needed, and would not be admitted to detention.<sup>151</sup>

The Healthcare Manager also gave examples of where she thought a child would be deemed unfit for detention, citing a serious disability such as cerebral palsy, advanced HIV infection or where specialist equipment is needed. The Healthcare Manager did know about the Rule 35 pro forma and was able to produce a copy to show us.

The UKBA Contact Monitor was unaware of any Rule 35 reports being submitted in relation to children at Yarl’s Wood.

### **The application of Rule 35 reports by healthcare relating to children**

Following their most recent inspection, HMIP recommended that:

“Rule 35 processes should recognise the full scope of the rule, which is to raise a concern whenever detention or conditions of detention are likely to be injurious to health.”

The comment is made because the form only appears to be used for reports under Rule 35 (2) (suicidal intention) or (3) (torture) but not for illnesses or conditions under 35 (1) (detention likely to be injurious to health). We noted during our visit that some staff referred colloquially to the Rule 35 pro forma as ‘the torture form’.

We were not made aware of any clinical guidance that would assist healthcare staff at Yarl’s Wood in identifying any ‘special illnesses or conditions’ in children that might result in detention being injurious to their health. The lack of Rule 35 reports on children indicates that, at minimum, a high threshold is being operated or that staff are not fully aware of the scope of the Rule or how to process a report under the Rule.

### **Consideration of Rule 35 reports by caseowners reviewing detention**

The purpose of Rule 35 reports is,

“to ensure that particularly vulnerable detainees are brought to the attention of those with direct responsibility for authorising, maintaining and reviewing that person’s detention. The information contained in such reports will need to be considered in deciding whether continued detention is appropriate and may also need to be considered in relation to its possible impact on the prospects of removal.”<sup>152</sup>

One difficulty with this arrangement is that caseowners or those reviewing detention are not best placed to understand medical evidence or the medical ramifications of what is being reported. This is illustrated by the following case.



## CASE STUDY

In responding to a Rule 35 report made on behalf of an HIV positive mother regarding the risks posed to her three month-old baby who had missed her BCG vaccination, the caseworker wrote:

"It is considered that this risk (of contracting Tuberculosis) is purely speculative but even if she were to contract tuberculosis on return to (country of origin), it is not considered that this would reach the threshold (of cruel or degrading treatment or punishment) imposed in the case of *N(FC) v SSHD* [2005] UKHL 31."

Baby C had been under the care of a paediatrician in the community prior to her detention due to the complex needs of a baby born to an HIV positive mother. The paediatrician described the child missing her BCG as a 'tragic misfortune', emphasising the high risk the child faced if returned to her mother's country of origin without protection from Tuberculosis.

A further difficulty with the arrangements is that Rule 35 reports will only ever reach caseowners or those conducting detention reviews through the UKBA Contact Management Team at the removal centre. It is frequently the case that an independent doctor will write a report on a detainee alleging ill health or torture. The current instructions in the Asylum Policy Instruction are to inform 'third parties' to refer such reports directly to the detainee's casework unit or caseowner. However, there are no prescribed time frames for caseowners to respond within. We recommend that the centre medical practitioner should review all external medical reports immediately on receipt to assess whether the evidence meets the threshold for a Rule 35 referral. The detainee should be told whether a report has been forwarded to UKBA.

## IMPROVEMENTS SINCE OUR VISIT

[Process of ministerial authorisation](#): A best practice statement was issued by UKBA in November 2008, governing the operation of the conference call arrangements.

## RECOMMENDATIONS

- 8.1 Welfare assessments, based on the Common Assessment Framework, should be completed for all children in detention within seven days by an independent social worker and should be immediately sent to the officer responsible for the review of detention. Subsequent welfare assessments should be produced regularly in writing.
- 8.2 The independence of social work staff and their assessments must be maintained and accorded full weight in decisions to continue detention.
- 8.3 Ministers reviewing a child's detention must be fully informed of the social worker's recommendations as recorded in the welfare assessment(s).
- 8.4 Where removal has not been effected within 48 hours, a judge should review whether continued detention is lawful and appropriate, and thereafter on a regular basis.
- 8.5 The full ambit of Rule 35 of the Detention Centre Rules needs to be recognised and applied to children who are in detention. When Rule 35 reports are issued, identifying the injurious impact of detention, the affected child (and their parents/carers) should be released.
- 8.6 Independent medical reports should be reviewed immediately by the centre medical practitioner with a view to deciding whether the evidence meets the threshold for a Rule 35 referral.

153 —  
The Australian Association for Infant Mental Health (AAIMH); Submission to the National Inquiry into Children in Immigration Detention - The Effect of Detention on Parenting.

154 —  
Neutral Citation Number: [2007] EWHC 1654 Case No: CO/9745/2005.

155 —  
*Ibid.* para 79.

156 —  
NICE (2008): Improving the nutrition of pregnant and breastfeeding mothers and children in low-income households.

## ARRANGEMENTS FOR PREGNANT AND NURSING MOTHERS AND THEIR BABIES AND INFANTS

**9** This chapter outlines the main problems with detaining pregnant and nursing mothers and their babies and infants. The detention of infants is damaging for their health, with evidence demonstrating that the institutional nature of detention undermines and limits a parent's capacity to provide for their children's health.<sup>153</sup> In particular, detention makes it more difficult for mothers to maintain a safe and supported feeding routine for babies and infants. This chapter draws on a range of case studies of families detained both before and after 11 MILLION's visit to Yarl's Wood in May 2008. We have made clear where case studies have been supplied to us either directly by a detainee or through a third party. We recognise that some of the issues discussed in this chapter remain matters of contention between the mothers on one hand and the centre's management on the other.

Our findings are examined with reference to children's rights to health under the United Nations Convention on the Rights of the Child (UNCRC) and the Every Child Matters Be Healthy outcome.

## VITAMIN AND MINERAL SUPPLEMENTATION FOR PREGNANT WOMEN, BREASTFEEDING MOTHERS AND THEIR INFANTS

Baby D, a breast fed infant of nine months-old, was detained in Yarl's Wood for four months in August 2005. When released, he was suffering from both anaemia and rickets. The Court of Appeal found the Secretary of State liable for a breach of Baby D's human rights and that the development of rickets and anaemia had been both 'foreseeable and avoidable'.<sup>154</sup> Rickets and anaemia result from a lack of vitamin D.

As the paediatrician giving evidence in the Baby D case noted: "Rickets can develop in a few months over winter in rapidly growing infants. It should have been evident to any trained health visitor or doctor in the detention centre that D required appropriate preventative measures in order to prevent rickets developing."<sup>155</sup>

The ruling in the Baby D case was issued in April 2007, and highlights the need for vitamin and mineral supplementation for nursing mothers and their infants detained in Yarl's Wood. Supplements are also important for pregnant mothers.

We fully acknowledge that the current healthcare provider was not contracted at the time of the Baby D case. Nevertheless, the lessons learnt from this tragic incident need to be fully understood by any contractor providing healthcare to mothers and infants in a detention environment.

The National Institute for Clinical Excellence (NICE) has issued guidance for all healthcare providers in England. The guidance sets minimum standards of nutritional support for all pregnant mothers, babies and infants in low income families and of special circumstance.<sup>156</sup>



The guidance summarised below should now be in place at Yarl’s Wood.

Health professionals working at the centre should have the appropriate knowledge and skills to advise on:

- The nutritional needs of women and the importance of a balanced diet before, during and after pregnancy (including the need for suitable folic acid supplements).
- The rationale for recommending certain dietary supplements (for example vitamin D) to pregnant and breastfeeding women.
- The nutritional needs of infants and young children.
- Breastfeeding management, using the Baby Friendly Initiative (BFI)<sup>157</sup> training as a minimum standard.
- Strategies for changing people’s eating behaviour, particularly by offering practical, food-based advice.

The NICE guidelines state that disadvantaged and low income women should receive free folic acid and vitamin C and vitamin D supplementation during pregnancy, and advice and information on the importance of vitamin D supplementation. The vitamin D issue is especially relevant to Yarl’s Wood because of limited access to direct sunlight.<sup>158</sup> Breastfeeding mothers and their babies should also be in receipt of such vitamin supplementation, as illustrated by the Baby D case.

Serco has told 11 MILLION that there are notices displayed in the health centre to advise GPs that it is Serco Health policy to prescribe folic acid pre-conception to 12 weeks gestation. The policy is to prescribe vitamin D to all pregnant women and breastfeeding mothers based on the NICE guidelines.<sup>159</sup> We were told that these arrangements were in place at the time of our visit, however our audit of the medical records, including those of mothers who should have received vitamin supplementation, failed to indicate that any had been given. We have yet to be provided with the details of this policy that is said to be in line with the NICE guidelines, and remain concerned that we saw no evidence of its operation in our audit.

## **HEALTHCARE DURING PREGNANCY**

### **CASE STUDY**

Mother G was detained at Yarl’s Wood late in her pregnancy and says she did not receive ante-natal or breastfeeding advice. She was released in order to be able to give birth and then re-detained 12 weeks later when her child was seven weeks-old. While such patterns of detention persist, high quality ante-natal and breastfeeding information and support are crucial.

We were told that both a midwife and a health visitor visit Yarl’s Wood on a weekly basis and are available to talk one to one with pregnant women. It is important that pregnant women and their partners are offered breastfeeding information, education and support and encouragement to breastfeed. A midwife or health visitor trained in breastfeeding management should be available in the last trimester of pregnancy to demonstrate the correct feeding position and how to attach the baby. Serco has assured us that this provision is in place, and has also told us that all of the routine scans that would be available in the community are readily accessible to pregnant women and that blood pressure is regularly monitored. We are grateful for these assurances as concerns have been raised in these areas with a number of NGOs, including Nursing Matters and the Black Women’s Rape Action Project.

Serco has also said that as soon as a pregnancy has been confirmed by healthcare staff, all pregnant women receive milk and fruit supplements. We were told that this was in place at the time of the visit.

157 —  
See [www.babyfriendly.org.uk](http://www.babyfriendly.org.uk)

158 —  
The main source of Vitamin D is through exposure of the skin to direct sunlight. For some ethnic groups in the UK, or for women who follow certain socio-cultural practices, skin exposure alone is not always enough to achieve sufficient vitamin D needed for pregnancy and breastfeeding. In these cases, dietary supplementation is necessary. This is especially so in institutional settings such as Yarl’s Wood where access to sunlight is limited.

159 —  
[www.nice.org.uk/nicemedia/pdf/CG062NICEguideline.pdf](http://www.nice.org.uk/nicemedia/pdf/CG062NICEguideline.pdf) 1.2.1.1

160 —  
Home Office; Enforcement Instructions and Guidance; chapter 45, para 2.11.  
Breastfeeding children may still be separated if there are compelling and exceptional circumstances indicating that separation may be appropriate to keep the child safe. The local authority must advise and agree to such a separation.

161 —  
[www.nice.org.uk/nicemedia/pdf/PH011guidance.pdf](http://www.nice.org.uk/nicemedia/pdf/PH011guidance.pdf)

## **BREASTFEEDING MOTHERS**

A review of family removals, over which the Children’s Commissioner was consulted, was conducted partly as a result of the case of Mother J which is outlined below. Mother J’s case has been extensively documented and reported on. There is now a clear policy that breastfeeding children must not be separated from their mother purely for immigration purposes.<sup>160</sup> While this is welcome, it means that mothers subject to removal can be detained whilst breastfeeding their babies. Where this occurs it is vital that the needs of mother and baby are catered for and that detention does not jeopardise the breastfeeding relationship.

Providing proper support and advice on breastfeeding management is an absolute duty for all healthcare providers.<sup>161</sup> As the case studies below illustrate, lack of breastfeeding management support has been a feature of Yarl’s Wood over the past two years.

### **CASE STUDY**

In May 2007, Mother J had been breastfeeding her two week-old baby, M, when she was separated from him and sent to Yarl’s Wood. When she arrived, she had already been separated for over four days and was significantly engorged, leaking milk and in considerable distress. She was given pain killers, constriction bandages, and told to take pills to dry her milk but refused to do so.

Mother J wanted to maintain her supply, and needed help with expression and collection. A week after her arrival she had still not been reunited with her baby and had received no support in maintaining her milk supply. She was squeezing her breasts, unaware she was doing so in a manner likely to cause damage.

When M was reunited with Mother J, no lactation support was provided by Yarl’s Wood to assist in re-establishing breastfeeding. Mother J only received support for this in the main visitor’s hall, from visitors attending purely to help her with the breastfeeding.

### **CASE STUDY**

In April 2008, Mother G reported being left in Yarl’s Wood without lactation support on the night her baby was removed by Bedfordshire Social Services because of a child protection concern. When she complained of engorgement, she says a hand pump was given to her through the slot of the door, but she received no assistance on how to use it.

When Baby T was returned to Mother G four weeks later, she reported that breastfeeding was painful, and that she was unhappy with having to continue with formula feeding in addition to breastfeeding.

Mother G wrote to the Head of Healthcare at Yarl’s Wood, detailing that she was in pain and asking for lactation support. She received none and was removed five days later with the baby still being supplemented with formula.

### **CASE STUDY**

Mother S who we met during our visit in May 2008 (see also chapter eight), reported that she had ceased breastfeeding whilst detained in Yarl’s Wood due to stress and depression. She had been prescribed anti-depressants in Yarl’s Wood.

According to the Non-Governmental Organisations Nursing Matters and Baby Milk Action, other mothers suffering depression in Yarl’s Wood have been told to stop breastfeeding in order to take anti-depressants. This is despite NHS protocols that lay out clear and detailed anti-depressant prescription and management plans that support breastfeeding.

## Breastfeeding and extra nutrition

Breastfeeding mothers should receive extra nutrition to sustain them during the night's milk production. In the prison estate, nursing mothers usually receive a flask of milk to take to their room overnight along with some food. Yarl's Wood has recently introduced rules that entitle additional food from the canteen to be taken to rooms, including small cartons of fresh milk. This welcome development appears to have occurred since Mothers J and G (see above) were detained, as both had reported that such extra provision was not available to them. Refrigeration should now be provided in rooms so that this extra provision can be stored safely during the night.

## FORMULA FEEDING

11 MILLION has a number of serious concerns regarding infants being fed formula milk within Yarl's Wood, as explained below. Some of our concerns might be addressed if we were provided with copies of the feeding review that we understand has taken place. We have asked for these in writing since our visit, but are still awaiting copies.<sup>162</sup> The fundamental problem is that there are restrictions on what equipment mothers can keep with them in their rooms, which may lead to unsafe feeding practices.

## Newborns and Powdered Infant Formula (PIF)

Powdered Infant Formula (PIF) is not sterile. The World Health Organisation (WHO) advises that it should not be fed to infants less than eight weeks of age as it seriously increases health risks in newborns.<sup>163</sup> NHS guidelines for this vary, but recognise the dangers involved in using un-sterile formula for newborns.<sup>164</sup>

When Baby M was returned to Mother J (see earlier case study) at four weeks-old, he was returned with containers of sterile Ultra Heat Treated (UHT) milk from social services, but was immediately transferred to regular un-sterile PIF. Serco has told us that baby formula is readily available in both the powdered and the sterile UHT form and is issued according to what the baby is currently accepting to reduce any upset through change. However, Baby M's case highlights that implementation of the policy is not always effective. Furthermore, another child, Baby C, was left without their prescription sterile formula for around 18 hours in July 2008.<sup>165</sup>

As babies as young as two weeks are detained in Yarl's Wood, there is need for a review and guidance on how long neonates (babies under four weeks-old) should have access to sterile UHT formula. Provision should be in line with the WHO recommendations.

## Formula preparation and storage

The system for dispensing formula preparation is that parents sign out PIF and make it up themselves, although it is not clear whether this has always been the case. Procedures on formula preparation and storage have changed considerably in the last two years, but it is unclear as to how these changes have been monitored and risk assessed. We still have significant concerns over some practices as outlined below.

While all new parents are taken through safe formula preparation once on arrival, there is a presumption that parents have been taught this prior to detention. However, some parents arrive breastfeeding exclusively and end up using formula for the first time at the centre. A review of current arrangements that ensures sufficient instruction is given to mothers regarding formula preparation and storage is needed.<sup>166</sup>

The Baby Friendly Initiative (BFI) has a wide range of leaflets in various languages, produced by UNICEF,<sup>167</sup> on the safe preparation of Powdered Infant Formula (PIF). These should be made available, especially in the laundry area where hot water for formula making is supplied.

Vomiting and diarrhoea are significant problems for infants in Yarl's Wood. We were told this by parents when we visited and have been made aware of it on numerous other occasions. We have particular concerns about the practice of providing bottle warmers

162 — Requested from Vicky Murray, Assistant Director for Children and Families, Serco, 03.07.08.

163 — [www.who.int/foodsafety/publications/micro/pif\\_guidelines.pdf](http://www.who.int/foodsafety/publications/micro/pif_guidelines.pdf)1.3

164 — [www.dh.gov.uk/en/Healthcare/Maternity/Maternalandinfantnutrition/DH\\_412367](http://www.dh.gov.uk/en/Healthcare/Maternity/Maternalandinfantnutrition/DH_412367)

165 — Letter from Morgan Gallagher, Nursing Matters, to Gillian Foley, Area Manager Detention Services, Tinsley House IRC, 27.07.08.

166 — Carletti C and Cattaneo A (2008); Home Preparation of Powdered Infant Formula: Is it safe?; Acta Paediatrica. This research found that just over 10% of parents with good to high education backgrounds are making up formula safely in the home.

167 — [www.babyfriendly.org.uk/page.asp?page=115&category=5](http://www.babyfriendly.org.uk/page.asp?page=115&category=5)

168 — [www.dh.gov.uk/en/Healthcare/Maternity/Maternalandinfantnutrition/DH\\_4123674](http://www.dh.gov.uk/en/Healthcare/Maternity/Maternalandinfantnutrition/DH_4123674)

169 — Reported by Victoria Murray, Assistant Director of Children and Families, Serco, to Morgan Gallacher and Alison Blenkinsop.

170 — Carletti C and Cattaneo A (2008); Home Preparation of Powdered Infant Formula: Is it safe?; Acta Paediatrica. 97, pp. 1131-1132.

171 — [www.nice.org.uk/nicemedia/pdf/PH011guidance.pdf](http://www.nice.org.uk/nicemedia/pdf/PH011guidance.pdf) 3.20.

to mothers using formula milk, especially as there is no access to refrigeration facilities. This is because:

- The provision of bottle warmers encourages mothers who are bottle feeding to heat up formula. For bottles that have been made up previously and left un-refrigerated, this presents a serious health risk to babies.

- NHS guidelines state that batches should be made up and used fresh for every single feed. If this is not possible, the made up bottle should be rapidly cooled and refrigerated.

- If a baby's mouth has actually touched the teat and introduced fresh bacteria into a bottle, the feed should be discarded within one to two hours regardless.<sup>168</sup> Serco has told us that parents are advised on this.

## CASE STUDY

In June 2008, Mother E was given oral dehydration sachets to keep her baby hydrated during a bout of vomiting and diarrhoea. Mother E had been making up feeds, keeping them in her room for several hours, and then reheating them in the bottle warmer provided to her on arrival.

Mother E also reported that she was prevented from following this course of action regarding Baby C's night-time feeds. She entered Yarl's Wood with a steel flask, which she had used at her health visitor's suggestion, to take boiling water into the bedroom in the evening. This was so that a night-time feed could be made hot and fresh without her having to leave the room. On entry to Yarl's Wood, staff refused to allow her to use the flask in this manner, stating it was against rules to have hot fluids in the rooms.

Yarl's Wood has stated that the bottle warmers are issued to allow mothers to heat jarred food for toddlers, and that some mothers use them to cool down freshly heated bottles by putting cold water in them.<sup>169</sup> Cooling hot bottles of formula in bottle warmers is outside the license of the product, and is against manufacturers guidelines for the product use. It poses a risk of bacterial growth, especially if the bottle warmer is then used to heat the feed later.<sup>170</sup>

Because weaning onto solids should only begin at six months of age,<sup>171</sup> we recommend that bottle warmers are only issued to mothers with babies older than six months, and to mothers who also have older children. Also, mothers should be reminded regularly that warmers should never be used to reheat already prepared formula or to rapidly cool formula that has just been made.

## Access to/rationing of formula

Some mothers have reported to NGOs that formula is either rationed or difficult to get hold of. The current arrangements for making up feeds are unsatisfactory and are likely to be contributing to the high levels of infant illness found in Yarl's Wood. We recommend that mothers feeding formula to their infants have facilities for making up fresh feeds in their own rooms, particularly where they have other children to care for. In the absence of this, an unrestricted amount of sterile pre-packed UHT formula must be made available to mothers for night-time feeds. Serco has told us that this has always been the arrangement, but this is in contrast to what mothers have reported to NGOs.

## **CASE STUDIES**

In 2007, Mother J was told that formula was only allowed for the first 12 months. Her 14 month-old, Toddler M, was not eating solids in Yarl's Wood, and Mother J lied about how much formula her other child, Baby M, was getting while she transitioned back to the breast, and fed his formula to the toddler.

Mother A reported that she was buying powdered skimmed milk in the shop on Crane Unit, as she was not getting enough formula to feed her baby from Yarl's Wood.

Mother E, in May 2008, reported that the office that contained the stored formula was often locked, and mothers would have to queue and wait for a member of staff to come and dispense formula. For this reason, mothers routinely made up extra bottles – an unsafe practice – and carried them around, so that babies did not go hungry whilst they waited.

Access to formula preparation at night-time is a particular issue. Although fresh feeds can be made up during the night on the unit, this requires leaving the bedroom and collecting hot water from the laundry. Mothers are frequently reluctant to leave other sleeping children alone in their rooms while taking a baby with them to make up a fresh feed. If they are trying to make a feed up before a baby wakes and cries with hunger, they must then decide whether to leave the baby sleeping alone in the room.

Because hot water is not permitted in bedrooms, this encourages mothers to make up feeds beforehand. These are then left un-refrigerated and, if fed during the night after being warmed in the bottle warmers, they are unsafe.

Since our visit in May 2008, we understand that whole tubs of formula are now given to mothers to store in their rooms. Whilst this does alleviate the problem of mothers waiting for formula, it presents another risk to infant health. There are sometimes incidents on the unit and, while these are being dealt with, mothers and their babies are returned to their rooms where only tap water, a tub of formula and a bottle warmer are available. Faced with a hungry baby, a mother may decide to make up a batch of formula from either hot or cold tap water and heat it through in the bottle warmer. This constitutes a significant risk to the infant from bacterial contamination.

### **Equipment**

Mothers in Yarl's Wood must have regular visits from health visitors so details of infant feeding can be advised upon by a suitably qualified professional. A health visitor will be able to give advice on when the baby's needs have outgrown provision made on entry. This is of particular importance to mothers with babies under six months who have been detained in Yarl's Wood for longer than 14 days. The case study below illustrates how systems set up to provide care for a few days break down when care is extended over several weeks or months.

## **CASE STUDY**

Mother E entered Yarl's Wood with her own feeding bottles which were lost when Baby C was placed in the nursery and never recovered. When Baby C was released after nearly two months in detention she was being fed from a teat that was too small for her growth. Mother E reported that she had not been able to obtain a new larger teat, as she had received her allotted provision.

## **IMPROVEMENTS SINCE OUR VISIT**

**Health visitors:** We welcome the expanded role of health visitors at the Health Centre. We are informed health visitors are now on-site each week. Serco Health has outlined to us that the health visitors do group sessions on feeding and weaning, and also advise on food choices. We hope that continued funding for this service will be guaranteed by UKBA.

**Advice to parents:** We are pleased that Serco Health has started to engage with the local Sure Start facility to obtain advice on appropriate baby and toddler facilities. Further detail on this engagement would be welcomed, particularly in terms of how this process has influenced policy and procedure. Serco Health has further advised us that a small group of their staff have been trained in UNICEF's Baby Friendly Initiative, and we query whether there are further plans for Yarl's Wood to be assessed and accredited as Baby Friendly under the terms of that scheme.

## **RECOMMENDATIONS**

**9.1** Detention is particularly damaging for babies and infants and no babies or infants should be detained by UKBA as a matter of policy.

**9.2** Women in detention should have access to all appropriate services related to pregnancy, confinement, and the post-natal period, with particular attention given to the provision of adequate nutrition during pregnancy and lactation. These services should be delivered in compliance with the standards established by the National Service Framework for children, young people and maternity services, the NICE Guidelines on Maternal and Child Nutrition and the Department of Health's Child Health Promotion Strategy and Serco must be able to demonstrate at audit that all these services are being provided to the relevant standard.

**9.3** Mothers of infants under four years should have regular access to a health visitor for advice and support on infant feeding and equipment needs. Health visitor contact with mothers and their infants should be recorded so that it can be audited. Serco should make their current feeding arrangements and the feeding review that has been undertaken accessible to healthcare professionals for scrutiny. Serco must ensure that all mothers are made aware of their entitlements to unlimited access to any kind of formula they require.

**9.4** There should be appropriate facilities provided to allow mothers feeding formula to their infants to be able to make up fresh feeds in their own rooms. This should include access to hot water and refrigeration.

## ACKNOWLEDGEMENTS

The staff at Yarl's Wood Immigration Removal Centre (IRC) are performing a difficult public duty. Despite the challenges we present in this report, I would like to thank them for their helpfulness to my staff and I during our visit. They were open, honest and frank in their views and opinions.

I would also like to thank the United Kingdom Border Agency (UKBA) for listening to us and for taking our comments seriously. We will continue to work together to bring us closer to our ambition to end the detention of children. We accept this will not be immediate, but we will keep up the pressure to ensure that these children, who are so vulnerable, have a voice through 11 MILLION and the Children's Commissioner.

Special thanks go to all the children and young people and their families who helped us with this report by talking to us about their experiences.

All children in England – be they UK citizens or citizens of another country – must expect to be treated in compliance with the principles of Every Child Matters, the articles of the UN Convention on the Rights of the Child and the European Convention on Human Rights, while they are here in the UK. The evidence we have presented is compelling and should drive the need for an urgent review of the requirement for and the process of the detention of children and young people.

As Children's Commissioner, it is my promise to strive to ensure that the views, needs and best interests of children and young people in detention are taken seriously and that they are given the respect, dignity and common decency that we would expect and demand for the children in our own families.

Sir Al Aynsley-Green  
April 2009

## APPENDIX ONE

172 —  
Currently and at the time of  
our visit, DSO/3 2008.

173 —  
Home Office (2008): Asylum  
Policy Instruction: Reports  
of Special Illnesses and  
Conditions (including claims  
of torture) Received from  
Immigration Removal Centres  
Regarding Detainees.

### Rule 35

The rule states:

"(1) The medical practitioner shall report to the manager on the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention.

(2) The medical practitioner shall report to the manager on the case of any detained person he suspects of having suicidal intentions, and the detained person shall be placed under special observation for so long as those suspicions remain, and a record of his treatment and condition shall be kept throughout that time in a manner to be determined by the Secretary of State.

(3) The medical practitioner shall report to the manager on the case of any detained person who he is concerned may have been the victim of torture.

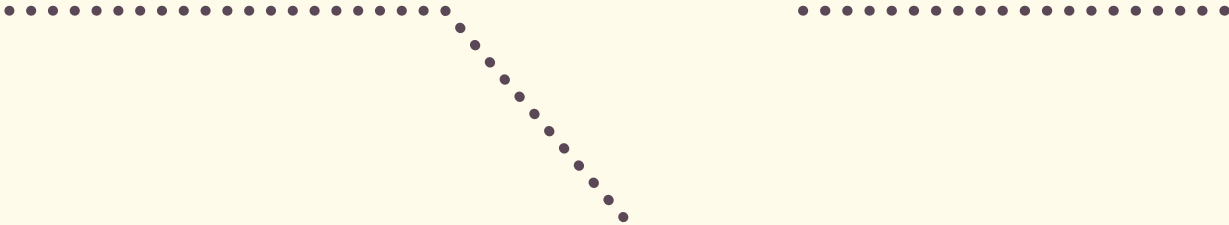
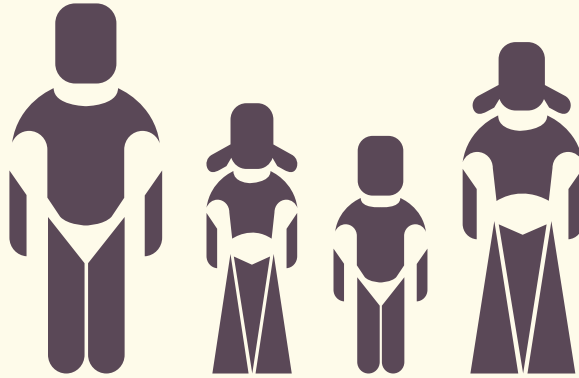
(4) The manager shall send a copy of any report under paragraphs (1), (2) or (3) to the Secretary of State without delay.

(5) The medical practitioner shall pay special attention to any detained person whose mental condition appears to require it, and make any special arrangements (including counselling arrangements) which appear necessary for his supervision or care."

The procedures for recording and dealing with 'Rule 35 reports' are set out in a 'Detention Services Order' (DSO)<sup>172</sup> and a related Asylum Policy Instruction (API)<sup>173</sup>. The API requires the Health Team "on receipt of a report from a detainee or where the terms of Rule 35 (1) to (3) are met" to "make a report of the claim" and "Immediately inform the Border and Immigration Agency (BIA) Contact Management Teams based at the Immigration Removal Centre."

Rule 35 reports are sent from healthcare to the UKBA 'contact management team' at the centre who must fax it within 24 hours to the caseworking office responsible for conducting the detainee's detention review. The review should be conducted within two working days of receipt and the result of the review returned to the centre. The DSO makes clear that the review should be placed on the medical file.





**“The 11 MILLION children  
and young people in England  
have a voice”**

Children’s Commissioner for  
England, Professor Sir Albert  
Aynsley-Green

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